APPENDIX A

EXCERPTS FROM ENVIRONMENTAL IMPACT STATEMENT

1.1 Historical Setting and General Project Description

Mine Reclamation Corporation (MRC) and Kaiser Eagle Mountain Inc., a wholly-owned subsidiary of Kaiser Ventures Inc., propose to develop the Eagle Mountain Project on a portion of the Kaiser Eagle Mountain Mine in the County of Riverside, California. Kaiser owns portions of the Project site in fee; the portions of the site not owned in fee by Kaiser are owned by the United States Government and administered by the BLM. Kaiser also holds unpatented mining claims on portions of the land administered by the BLM. The BLM lands within the Project site are proposed to be conveyed in fee to Kaiser by the BLM as pan of the land exchange. (These exchange lands are discussed and illustrated in Section 2.1.1.)

The Eagle Mountain Project comprises two major features: (1) a Class III nonhazardous municipal solid waste landfill (Eagle Mountain Landfill) proposed to be operated by MRC: and (2) the resulting renovation and subsequent repopulation of the existing, adjacent Eagle Mountain Townsite (Townsite) owned by Kaiser. The landfill will receive waste primarily by rail. To effect the proposed Project, the proposed action involves the approval of a land exchange between Kaiser and BLM, the issuance of two right-of-way grants from the BLM to Kaiser, and the approval of land use applications for the landfill and the Townsite by the County. Figures 1-1 and 1-2 show the regional setting and the site location, respectively, of the Eagle Mountain Project. Kaiser has leased a portion of the mine site to MRC for the development and operation of the Eagle Mountain Landfill.

1.1.1 Historical Mining Activity

The Eagle Mountain open-pit iron-ore mine was operated by Kaiser Steel Corporation predecessor of Kaiser Ventures Inc.) on a full-time basis from 1948 to 1983. During that time, Kaiser recovered from four pits (i.e., East Pit. Central Pit, Black Eagle Pit [North], and Black Eagle Pit [South]) over 940 million tons of material, consisting of approximately 228 million tons of crude ore and 712 million tons of waste rock at rates of up to 59 million tons of material annually. From that crude ore, approximately 114 million tons of marketable concentrates were produced onsite and shipped from the property for steel making. The waste rock (i.e., randomly sized, non-iron-bearing rock that was excavated to gain access to the iron ore) remains onsite in overburden (waste) piles or disposal areas adjacent to the mining pits. The fine mine tailings, which comprise sand, silt, and clay remaining front the mined materials resulting from the ore concentrating operations remain in the impoundments constructed onsite. Although full-time operation of the mine was curtailed in 1983, Kaiser continues to engage in mining-related activities, including the sale and shipment of overburden as crushed rock and mixed rock product, the maintenance of equipment and roads, and the administration of Kaiser's mining claims. Kaiser's Eagle Mountain rail line was used for two shipments of iron ore in March 1993. The specific land use zoning of the mine site is discussed in Section 3.5. Land Use.

Over 5.500 acres of the mine site were disturbed by Kaiser Steel's mining operations. Although the disturbance predates the California Surface Mining and Reclamation Act (SMARA) a reclamation plan for the mine site was developed by Kaiser Steel in 1976 in

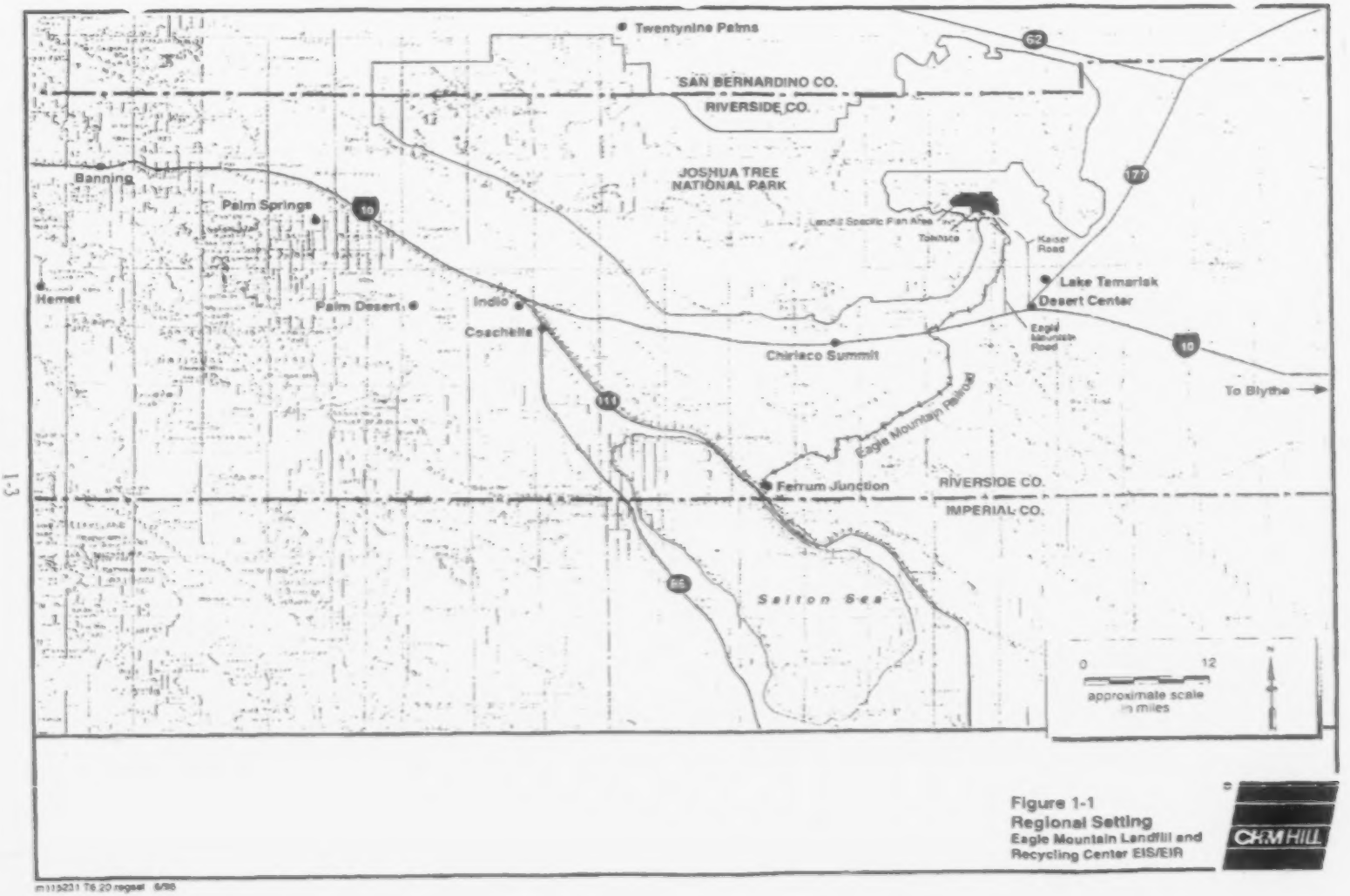

Figure 1-1
Regional Setting
Eagle Mountain Landfill and Recycling Center EIS/EIR

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response to SMARA and approved by the County of Riverside. The reclamation plan, however, requires only limited reclamation activities (e.g., removing equipment and buildings and limiting public access to the former mine site). The continuing implementation of the existing plan would result in the site remaining a disturbed area. The existing reclamation plan is proposed to be amended as part of the proposed County land use approvals (see Section 1.2.5). This amendment applies only to the area addressed by the Specific Plan for the landfill.

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1.3.2.2 Project Proponents (Kaiser and MRC)

The primary objective of MRC, the proponent of the landfill component of the Project, is to construct and operate a Class DI nonhazardous municipal solid waste disposal facility that satisfies the following criteria:

- Is located on property owned or controlled by Kaiser, and/or on property that can be acquired by Kaiser through a land exchange
- Is located adjacent to transportation routes for which Kaiser possesses, or can acquire, all necessary rights-of-way
- Is located adjacent to the large quantities of mining overburden generated by former mining activities at the Kaiser mining site, so that such overburden can be used in construction of the landfill
- Satisfies all applicable environmental and permitting requirements for a Class non-hazardous municipal solid waste disposal facility

The primary purpose/objective of Kaiser, the proponent of the Townsite component of the Project and a significant investor in MRC, is to:

- Renovate and reuse existing structures in the Townsite, in a manner consistent with the construction and operation of the landfill
- Establish long-term land use and development of goals for the renovation and reuse of the Townsite
- Provide a long-term income source for a pension plan that supports retirees of the former Kaiser Steel Corporation

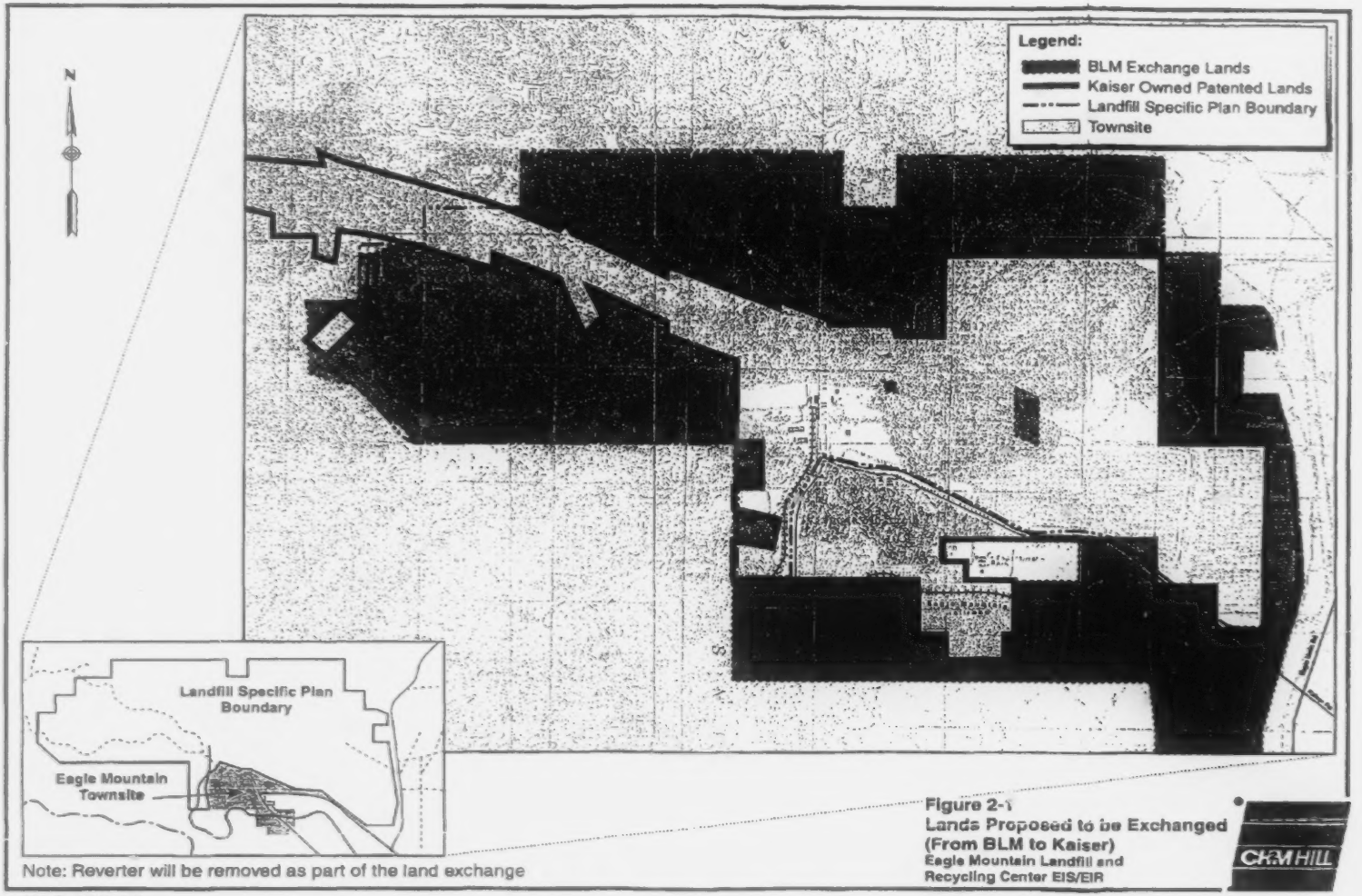

Figure 2-1
Lands Proposed to be Exchanged (From BLM to Kaiser)
Eagle Mountain Landfill and Recycling Center EIS/EIR

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2.1.1.1 Selected Lands (Lands to be Transferred from Bureau of Land Management to Kaiser)

Under FLPMA, the BLM will transfer approximately 3,481 acres of publicly owned lands in the Eagle Mountains to Kaiser. These selected lands fall within Sections 25-28 and 33-38, Township 3 S. Range 14 E; Sections 30 and 31, Township 3 S. Range 15 E; Sections 1, 2, 11, and 12; Township 4 S, Range 14 E; and Sections 6 and 7, Township 4 S, Range 15 E, San Bernardino Meridian (SBM). These selected lands, which are shown in Figure 2-1, include unencumbered parcels, lands currently encumbered with a variety of unpatented mining and millsite claims held by Kaiser, or lands in which the BLM has a reversionary interest. These claims would be relinquished by Kaiser upon conveyance of the lands by the BLM.

A Mineral Potential Evaluation was prepared for the previously prepared EIS/EIR and has been reviewed by the BLM for this EIS/EIR. A determination was made that conditions have not changed in mineral markets or demands that would change the previous conclusion that some of the selected public Sands are valuable for aggregate. The patent to Kaiser will be impressed with a mineral reservation for these lands.

2.1.1.2 Offered Lands (Lands to be Transferred to Bureau of Land Management by Kaiser)

The Kaiser-owned lands proposed for transfer to federal ownership (for administration by the BLM) consist of approximately 2,486 acres of lands located along the Kaiser-owned Eagle Mountain Railroad as it traverses northeast from Ferrum Junction (on the northeast shore of

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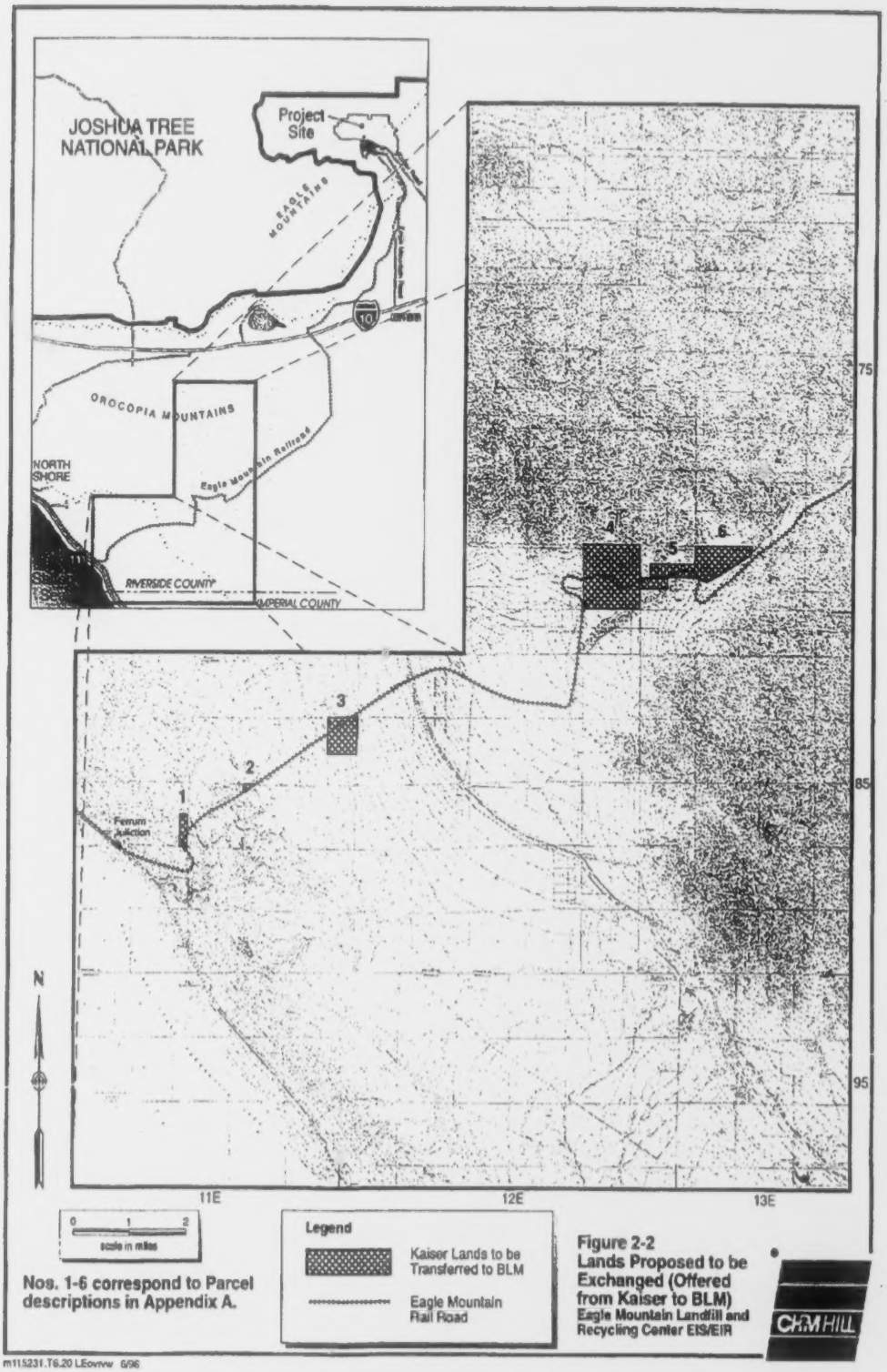

Nos. 1-6 correspond to Parcel descriptions in Appendix A.

Figure 2-2
Lands Proposed to be Exchanged (Offered from Kaiser to BLM)
Eagle Mountain Landfill and Recycling Center EIS/EIR

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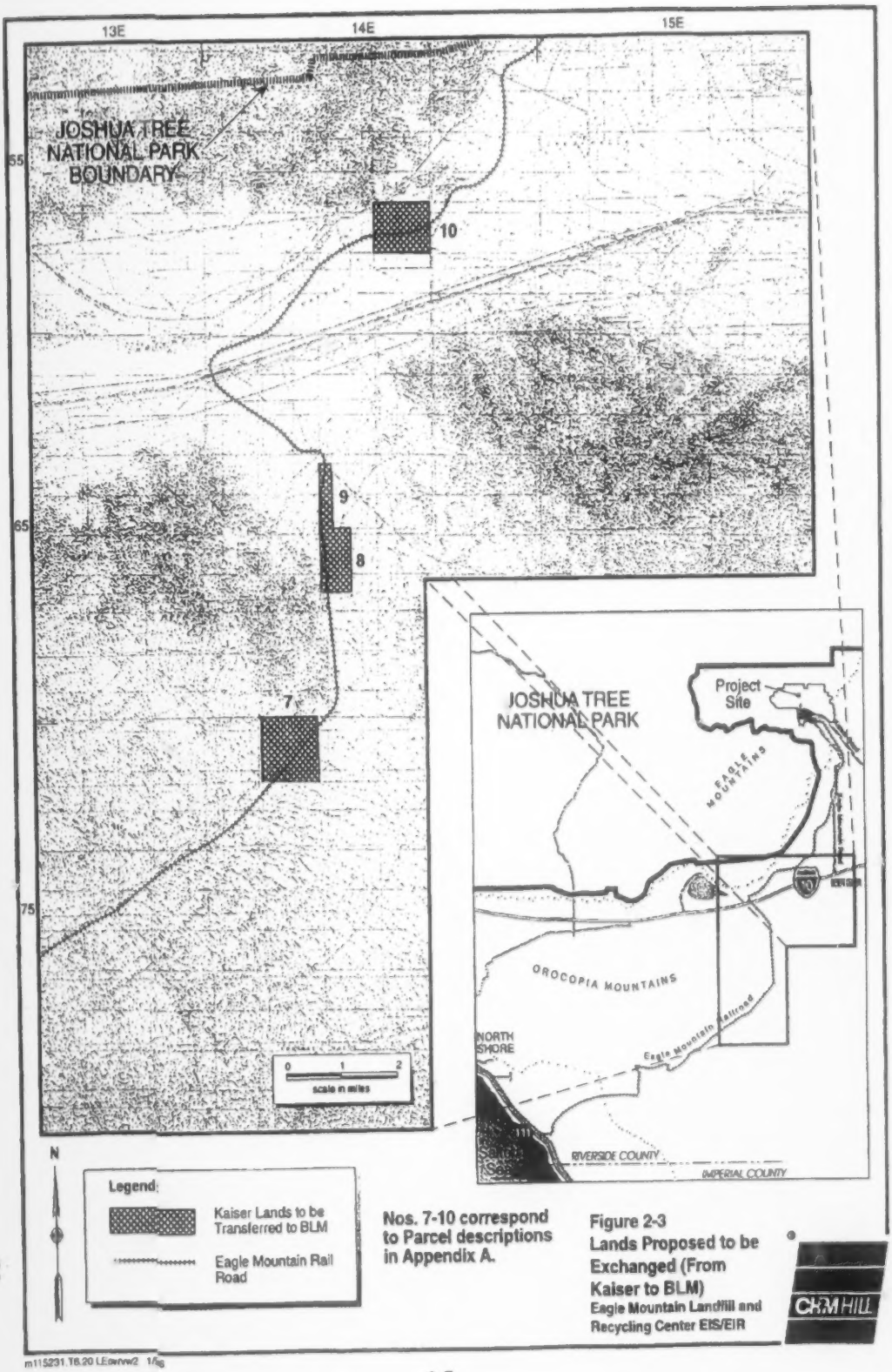

Nos. 7-10 correspond to Parcel descriptions in Appendix A.

Figure 2-3
Lands Proposed to be Exchanged (From Kaiser to BLM)
Eagle Mountain Landfill and Recycling Center EIS/EIR

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the Salton Sea) to just north of Interstate 10. Kaiser will reserve an easement (averaging 200 feet wide) in the deed to the United States for operation and maintenance of the railroad. These lands are shown in Figures 2-2 and 2-3. By effecting the land exchange, the BLM will acquire lands of prime habitat for the federal—and state-listed threatened desert tortoise. In addition, lands, and habitat for other federally endangered, threatened, and sensitive animal and plant species would be transferred to federal ownership (i.e., for the BLM's administration) to become part of a 20,000-acre nature preserve that includes the Salt Creek Area of Critical Environmental Concern. (Federal lands designated as Areas of Critical Environmental Concern are discussed further in Section 3.5, Land Use, and in Section 3.11, Wilderness.) Acquisition of these offered lands would .contribute to the BLM's goals of protecting sensitive species, result in more efficient management of the preserve area, and contribute to the BLM's efforts to promote biodiversity in the state. These lands will be managed by the BLM according to the appropriate guidance and policies, including the Desert Tortoise, Recovery Plans issued by the USFWS and the California Desert Conservation Area Plan and its future amendments.

2.1.1.3 Reverter Interest in Townsite Area and Rights-of-Way

In 1955, the BLM issued a patent to Kaiser Steel for a 460.63-acre parcel, including portions of the Townsite, subject to a reversion interest to the United States in the event that the property is not used for a period of 7 years as a camp site, mill site, or for other incidental purposes in connection with Kaiser Steel's mining operations. This patent, which was issued in accordance with Private Law 790

(PL 790), is now held by Kaiser Eagle Mountain, Inc. (i.e., Kaiser). Similarly, the existing right-of-way for Kaiser's Eagle Mountain Railroad and Eagle Mountain Road, which also was granted in accordance with PL 790, contains a reversion to the United States if the right-of-way is abandoned or is not used for a period of 7 years.

Although Kaiser has discontinued full-time mining operations at the Eagle Mountain Mine. Kaiser has continued to ship iron ore and other materials (e.g., aggregate and riprap) and has engaged in other activities incidental to mining at the Townsite, such as the maintenance of equipment and roads, administration, and annual assessment work in connection with the maintenance of Kaiser's mining claims. In March 1993, the railroad was used for two shipments of iron ore. The reversion interest of the United States in the 465-acre parcel around and including portions of the Townsite will be removed (i.e., conveyed) as part of the land exchange with Kaiser, and the existing legislative-right-of-way for the railroad and Eagle Mountain Road will be replaced with a new FLPMA right-of-way (see Section 2.1.2).

2.1.2 Federal Land Policy Management Act Roads and Railroad Right-of-Way Grants (Bureau of Land Management, Environmental Impact Statement)

Kaiser currently has a right-of-way for its private Eagle Mountain Railroad to the Project site and a right-of-way for the Eagle Mountain Road that was granted by the BLM pursuant to PL 790 on certain federal lands along the rail and roadways not already owned by Kaiser or where Kaiser has easements on private lands or permits from other federal agencies. Two proposed rights-of-way to be granted by the BLM to Kaiser, would be issued under FLPMA. The

first right-of-way (totaling approximately 28.6 miles over public lands) is for the existing Eagle Mountain Railroad that would replace the existing legislatively approved (i.e., PL 790) right-of-way. This proposed right-of-way also includes portions of land crossed by the rail spur proposed to be constructed from the existing Eagle Mountain Railroad to the Project's Planning Area 3 rail yard (i.e., Rail Yard II) and lands for the Eagle Mountain Road extension north of the pumping station operated by the Metropolitan Water District of Southern California (MWD) The second right-of-way (approximately 6.75 miles long) is proposed to be issued jointly to Kaiser and MWD for their use of the existing Eagle Mountain Road from Interstate 10 to, the MWD Pumping Station. These features are discussed below (also see Section 1.2.41 and shown in Figures 2-4, 2-5, and 2-6.

2.1.2.1, Eagle Mountain Road

The existing Eagle Mountain Road from the Interstate 10 interchange to MWD's Eagle Mountain Pumping Station is shown in Figure 2-4. Eagle Mountain Road begins in SE1/4 Section 30, Township 5 S. Range 15E, SBM, and runs almost due north ending in NE 1/4 Section 19, Township 4 S. Range 15 E. SBM, near MWD's Eagle Mountain Pumping Station. The paved road is currently maintained by the County of Riverside, authorized under Federal Revised Statutes, Section 2477. A right-of-way grant was previously authorized to Kaiser by the BLM pursuant to PL 790 (LA-121701). The proposed Project is to widen the existing two-lane, 20-foot-wide paved road to a two-lane, 32-foot-wide paved road. The total right-of-way for which Kaiser is applying is of variable width (averaging 110 feet wide) to allow for the paved roadway, shoulders, and berms and

drainage ditches. This portion of the right-of-way is approximately 6.75 miles long. The purpose of this road right-of-way is to serve as the main truck access route to the Eagle Mountain Landfill site.

2.1.2.2 Eagle Mountain Road Extension

The proposed Eagle Mountain Road extension is shown in Figure 2-5. The road will begin in NE1/4 Section 30. Township 4 S. Range 15 E. SBM, just south of the MWD Eagle Mountain Pumping Station and will continue to the northeast and then northwest before heading north to Kaiser Road. Approximately 1.5 miles of this proposed route are authorized under an existing right-of-way grant pursuant to PL 790 (LA-0121701) for mining-related purposes only. This partially existing dirt road is approximately 15 to 18 feet wide in most areas and is known locally as the Kaiser Truck Trail. This portion of the truck trail will be converted to a FLPMA right-of-way. The remainder of the Kaiser Truck Trail right-of-way will be relinquished by Kaiser, and Kaiser will maintain this road.

The proposed Project includes widening the existing portion and building a new 32-foot-wide paved road. The total width of the right-of-way for which Kaiser is applying is variable (averaging 110 feet wide) to allow for the paved roadway, shoulders, and berms. The proposed Eagle Mountain Road extension is approximately 6 miles long and crosses approximately 3 miles of public land requiring a right-of-way from the BLM. The remaining 3 miles is on private land or public land proposed to be conveyed to Kaiser by exchange.

* * *

2.1.2.3 Eagle Mountain Railroad

The existing 52-mile private Eagle Mountain Railroad intersects with the Southern Pacific rail system at Ferrum Junction and continues north to the mine site at Eagle Mountain. The right-of-way for which Kaiser is applying is of variable width (averaging 200 feet) with appurtenant areas for drainage structures. This railroad is shown in Figures 1-1 and 2-2 through 2-5. Approximately 28.6 miles of the rail line traverse federal lands managed by the BLM. The remainder of the Eagle Mountain Railroad is on other federal lands where Kaiser holds permits from other agencies, on private lands where Kaiser holds easements, or on Kaiser-owned lands that will be made subject to easements to be reserved by Kaiser when the lands are conveyed to the BLM through the land exchange.

Eagle Mountain Railroad passes through the northwestern portion of the Chocolate Mountain Gunnery Range, which is managed by the U.S. Navy. The existing right-of-way was granted by the BLM with the concurrence of the Navy on those portions of federal lands withdrawn by Public Land Order 281, as amended by Public Land Orders 2312 and 5759 for use by the Navy. The Secretary of Interior retained jurisdiction to issue, with the concurrence of the Navy, rights-of-way over the withdrawn lands. Kaiser holds a revocable permit from the Navy on former private lands that were acquired by the Navy. The FLPMA right-of-way addressed in this EIS/EIR also would be granted on the withdrawn lands with the concurrence of the Navy. The Navy gave its concurrence to issue the right-of-way grant (October 7, 1993). The Chocolate Mountains Aerial Gunnery Range was reauthorized (i.e., withdrawn) by Con-

gress by Title VIII of the California Desert Protection Act. Section 805(a)(3)(B) authorizes the Secretary of the Interior (through the BLM) to issue rights-of-way with the concurrence of the Secretary of the Navy.

The southern portion of the existing Eagle Mountain Railroad also passes through federal land (NW 1/4 Section 28, Township 8S, Range 11E) near Ferrum, which was withdrawn for the U.S. Bureau of Reclamation (BOR) Secretarial Order of October 19, 1920, for the Yuma Reclamation Project. By agreement with the BOR, the BLM is responsible for managing the resources and issues authorizations on these lands. The existing right-of-way (LA-0121701) was granted by the BLM with the concurrence of the BOR. The FLPMA right-of-way would also be granted on the withdrawn lands with the concurrence of the BOR. The BOR gave its concurrence to issue the right-of-way grant on June 11, 1993.

The rail line also traverses a portion of state-owned land patented under the Recreation and Public Purposes Act (43 U.S.C. 869) to the State of California for inclusion into the Salton Sea State Recreation Area in 1971. The patent was issued subject to Kaiser's existing right-of-way grant (LA-0121701) pursuant to PL 790; and contains a reversionary clause in favor of the United States if the lands are not used as a recreation area. Kaiser intends to replace the right-of-way with an easement granted by the state, with the concurrence of the BLM.

The railroad is authorized over BLM-managed public lands, lands withdrawn for the Navy and the BOR, and lands patented to the state under an existing right-of-way grant (LA-0121701) pursuant to PL 790 for mining-related activities. This right-of-way will be converted to a FLPMA right-of-way. The

granting of this right-of-way over public land would allow the use of the Eagle Mountain Railroad to carry trains for purposes other than mining (e.g., transport of refuse containers from the Southern Pacific line at Ferrum Junction to the proposed Rail Yard I and/or repair and maintenance facility [see Section 2.1.7.1]). At the beginning of landfill operations, no more than three trains per day would use this route to Rail Yard I (see Figure 2-5). As the landfill is developed (i.e., when the daily disposal capacity at the landfill site exceeds 10,000 tons per day), trains entering the landfill site will be routed east of the Eagle Mountain Townsite (see Section 2.1.3) into the proposed Rail Yard II (see Figure 2-6) via a railroad spur (see Section 2.1.2.4). Use of Rail Yard II would allow some or all of the rail traffic to be routed further from the Townsite. Rail Yards I and II can be used simultaneously to accommodate a total of up to six trains per day.

2.1.2.4, Eagle Mountain, Railroad Spar

The proposed new railroad spur, which is shown in Figure 2-6, will begin just past the location where the existing railroad crosses the Colorado River Aqueduct in S1/2 Section 7, Township 4 S, Range 15 E, SBM, and, extends to the north to the proposed Rail Yard Planning Area 3 in W1/2 Section 31. Township 3 S, Range 15 E, SBM. The rail spur will be approximately 2 miles long and is almost entirely on land proposed to be conveyed to Kaiser as part of the land exchange. The purpose of this spur is to route rail traffic east of the Townsite into the larger proposed Rail Yard II when daily waste disposal capacity exceeds 10,000 tons per day.

2.1.6.1 Phasing of Landfill Development

The Eagle Mountain Landfill will be developed as a single waste management unit using the canyon and pit fill method. The canyon and pit fill method consists of placing waste in canyons and/or pits that have been prepared to accept the waste by grading and construction of a liner system. The waste can be placed at the head (i.e., up slope) end of the canyon or it could be placed at the mouth (i.e., down slope) end of the canyon. Waste at the Eagle Mountain Landfill will be placed and compacted starting at the mouth of each canyon and the lowest (i.e., deepest) area of the pits. Surface water drainage systems will direct stormwater flow around the waste areas. Construction and accompanying operations will be implemented in five contiguous phases, generally from west to east. Each landfill phase will be separated into subphases to facilitate construction of the liner system and to optimize site operations. Each subphase will comprise from 10 to 30 acres, and the subphases generally will be developed from lower to higher elevations. Within the 10- to 30-acre subphase area, the active working area will be less than 2 acres (the exact acreage will depend on the daily volume of incoming waste). The five phases are shown in Figure 2-16.

As described previously, extensive site-specific technical studies have already been completed in support of this document, the previous EIS/EIR, and the ROWD (GeoSyntec, 1992). Prior to construction of each subphase, construction-level design will be completed and associated construction plans and specifications will be prepared and submitted to the

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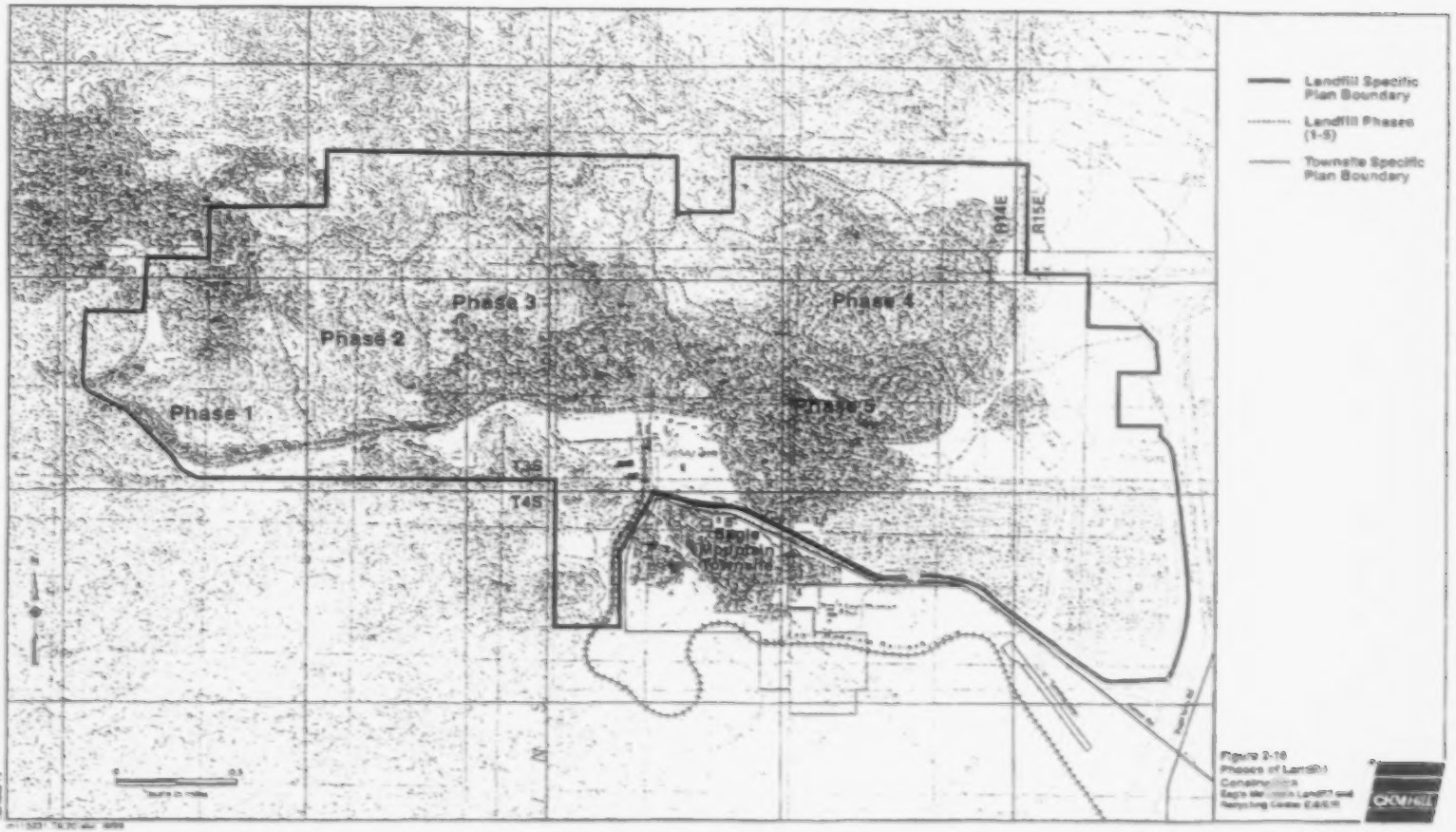

Figure 2-16
Phases of Landfill Construction
Eagle Mountain Landfill and Recycling Center EIR/EIS

Regional Water Quality Control Board (RWQCB) for review and approval. Construction-level design activities will include additional geologic, geotechnical, and hydrogeologic investigations. The data from these additional investigations will supplement existing site-specific data. Several of the technical areas for which additional data will be obtained during construction-level design activities are: (1) detailed geologic mapping; (2) subphase-specific geotechnical investigations; (3) subphase-specific slope stability analyses; and (4) development of a comprehensive Project construction quality assurance (CQA) plan. These areas are described below.

Subphase-specific geotechnical, geologic, and hydrogeologic investigations are planned as part of the construction-level design for each subphase of Eagle Mountain Landfill development. Design issues that will be further addressed during this stage of Project development will include:

- Detailed geologic mapping of all natural and cut slopes influencing each subphase will be conducted prior to construction. One function of the geologic mapping is to identify areas where adverse geologic conditions (e.g., fracture zones, out-of-slope bedding, fault zones, or other geologic discontinuities) could impact slope stability. Any adverse conditions identified during the mapping will be remediated during construction, as necessary. Remedial measures could include scaling (removal) of potentially unstable bedrock wedges or other unstable zones or stabilization of these areas using either structural measures (e.g., rock bolts, soil nailing, or ground anchors) or earthfill. Any required remedial measures

will be addressed in the construction plans and specifications prepared for each new subphase.

- Geologic field reconnaissances will also be performed to confirm that the subphase does not include any previously unmapped geologic structures (e.g., faults) that could provide preferential-flow pathways for groundwater past the point of compliance. Should such geologic structures be identified, they will be investigated. Groundwater monitoring-well locations will be adjusted as necessary to reflect the existence of such preferential-flow pathways. If necessary, additional wells will be added to the monitoring well network.

- Geotechnical investigations of each subphase area will be used to investigate the extent of alluvial and debris flow deposits. The geotechnical investigations will address the compressibility and collapse potential of alluvial materials and calculations will be performed to estimate the resulting total and differential settlements within each subphase. The potential for impacts to the containment system from these total and differential settlements will also be evaluated for each new subphase during the construction-level design. If the evaluation reveals a potential for significant impact on the performance of the containment system, the construction specifications
for that subphase will contain requirements for excavating unsuitable foundation materials and replacing them with compacted engineered

- Site-specific stability analyses of each slope in each subphase of development will also be analyzed during the construction-level design of each subphase. Field data will be obtained during construction-level design activities. At that time, site-specific geologic data (e.g., joint and shear orientations) will be incorporated into the geotechnical cross sections used for analyses of each slope. The results of these analyses will be presented in the design documentation prepared for each new subphase and submitted to the RWQCB for review and approval.

The construction-level design activities also will include the development of a comprehensive landfill CQA plan. The CQA plan will include provisions that require CQA personnel to confirm and document that various elements of the landfill are constructed in accordance with the plans and specifications. The CQA plan will also require monitoring, testing, and documenting liner system construction, and will provide a mechanism for identifying and correcting any observed problems. Over the past several years, CQA programs of the type described have become a standard part of municipal solid waste landfill construction projects. Provisions for CQA at the Eagle Mountain Landfill are provided in the RWQCB WDRs.

Phase 1. Phase 1 will start in the western end of the landfill. An area of about 319 acres will be graded, lined, and filled as this phase of the landfill is constructed. Liner elevations in Phase 1 will range from about 1,660 feet above sea level (based on the national geodetic vertical datum of 1929) at the lowest collection sump area to 2,750 feet above sea

level at the upslope northern end of the phase. Final cover elevations in Phase 1 will reach 2,750 feet above mean sea level. Interim waste slopes during the filling of Phase 1 will be up to 400 feet high at inclinations of up to 2H:1V (27 degree slope) measured for the horizontal. Final cover slopes will be approximately 1,000 feet high at an average inclination of 3.5H:1V (16 degree slope). Construction, filling, and progressive implementation of Phase 1 closure are expected to occur over a 17-year period.

Phase 2. Phase 2 of the Eagle Mountain Landfill will occupy an area of approximately 312 acres immediately east of Phase 1. Liner elevations in Phase 2 will range from about 1,540 feet above sea level at the lowest sump area to about 2,620 feet above sea level at the upslope northern end of the phase. Final cover elevations in Phase 2 will reach approximately 2,750 feet above sea level. Interim waste slopes during the filling of Phase 2 will be up to 400 feet high at inclinations of up to 2H: 1V. Final cover slopes in Phase 2 will be about 1,000 feet high at an overall inclination of 3.5H: 1V. Construction, filling, and progressive implementation of Phase 2 closure are expected to occur over an 11-year period.

Phase 3. Phase 3 of the landfill development will occur in a plan area of approximately 703 acres immediately east of Phase 2. Liner elevations in Phase 3 will range from about 1,060 feet above sea level at the lowest sump area to about 2,420 feet above sea level at the upslope northern end of the phase. Final cover elevations in Phase 3 will rise approximately 2,550 feet above sea level. Interim waste slopes during the filling of Phase 3 will be up to 400 feet high at inclinations of up to 2H:1V. Final cover slopes in Phase 3 will be about 1,300 feet high

at an overall inclination of 3.5H:1V. Construction, filling, and progressive implementation of Phase 3 closure are expected to occur over a 31-year period.

Phase 4. Phase 4 of the landfill development will occur immediately northeast of Phase 3. Phase 4 will cover a plan area of approximately 534 acres. Liner elevations in Phase 4 will range from about 1,030 feet above sea level at the southeast edge of the phase to about 2,000 feet above sea level at the upslope northwest corner of the phase. Final cover elevations in Phase 4 will rise approximately 2,120 feet above sea level. Interim waste slopes during the filling of Phase 4 will be up to 400 feet high at inclinations of up to 2H:1V. Final cover slopes in Phase 4 will reach heights of about 700 feet. Final cover slopes will have average inclinations of 3.5H:1V. Construction, filling, and progressive implementation of Phase 4 closure will occur over a 19-year period.

Phase 5. Phase 5 of the landfill development comprises most of the East Pit. Phase 5 will be situated southeast of Phase 3 and south of Phase 4. Phase 5 will cover a plan area of about 289 acres. In addition, Phase 5 disposal operations will also extend over portions of Phases 3 and 4. Liner elevations in Phase 5 will range from about 940 feet above sea level in the western portion of the phase to about 830 feet above sea level in the eastern portion of the phase. The final cover slope in Phase 5 will reach heights of just above 2,200 feet and will be inclined at an average of 3.5H:1V. Construction, filling, and progressive implementation of Phase 5 closure will occur over a period of approximately 39 years.

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2.2 Description of the Proposed Action

Mine Reclamation Corporation (MRC) and Kaiser Eagle Mountain, Inc., wholly-owned subsidiaries of Kaiser Ventures Inc., propose to develop the Eagle Mountain Project on a portion of the Kaiser Eagle Mountain Mine in the County of Riverside, California (Figure 2-1). Kaiser currently owns portions of the Project site; the remainder of the site is owned by the United States Government but subject to Kaiser mining claims. These federally owned lands are proposed to be conveyed to Kaiser by the BLM in exchange for lands owned by Kaiser along the existing Eagle Mountain Railroad. Portions of the proposed landfill site are within the Eagle Mountains, and the site is bordered on the north, west, and southwest by Joshua Tree National Park (JTNP), and on the east and southeast by the Chuckwalla Valley. The legal description of the BLM lands to be transferred to Kaiser is in Appendix Z.

The proposed Eagle Mountain Project includes two major components: (1) development of a Class III nonhazardous municipal solid waste landfill to be operated by MRC, and (2) the renovation and subsequent repopulation of the existing Eagle Mountain Townsite (Townsite), which is owned by Kaiser, adjacent to the proposed landfill site.

2.2.1 Eagle Mountain Landfill

The Eagle Mountain Landfill is proposed to be primarily a waste-by-rail facility, designed to meet a significant portion of Southern California's long-term municipal solid waste disposal needs. Figure 2-2 shows the projected waste flow volumes for the seven-county wasteshed area in Southern California during the anticipated life of the Project. The ana-

lyses conducted for this EIS/EIR are based on a total landfill life of approximately 117 years. The amount of waste anticipated to be accepted at the proposed landfill will increase incrementally during the first 25 years of operation: approximately 4,500 tons per day (tpd) for Years 1 through 4; 8,200 tpd for Years 5 through 9; 12,100 tpd from Year 10 through 14; and 16,000 tpd for Years 15 through 24. After this time, the landfill is anticipated to accept up to 20,000 tpd of municipal solid waste for the remaining years of operation. The total disposal capacity of the landfill will be approximately 708 million tons.

The site of the proposed Project is bordered on the north, west, and southwest by the JTNP and Eagle Mountains, and on the east and southeast by the Chuckwalla Valley. The southern boundary of JTNP in the Pinto Basin lies within approximately 1.5 miles of the Eagle Mountain Project site. The site of the proposed landfill encompasses approximately 4,654 acres. Of this acreage, approximately half (2,164 acres) will be used for actual disposal of waste, while the remaining acreage (approximately 2,490 acres) will be used for buffer areas and ancillary facilities. The majority of the waste to be received at the landfill will be transported by train via the Union Pacific (formerly the Southern Pacific) rail system and an existing 52-mile, Kaiser-owned rail line that extends from Ferrum Junction to the Eagle Mountain Mine. Of the remaining waste received at the proposed landfill and not transported by train, most will be transported by transfer trucks in enclosed waste-haul trailers; only a small percentage of waste will be accepted at the landfill site from self-haul, commercial operations serving local communities within the Chuckwalla Valley area. Waste transported to the

Project site, whether by train or by transfer truck, will be transported in enclosed containers.

2.2.2 Eagle Mountain Townsite

The Eagle Mountain Project also includes the planned renovation and repopulation of the adjacent Kaiser-owned Townsite to provide housing for landfill workers and their families. The Townsite is an existing, but underutilized, former mining community located directly south of the Eagle Mountain Landfill site on approximately 429 acres. At the height of mining operations in the 1960s and 1970s, approximately 3,700 people lived in the Townsite. The Townsite contained residential development, schools, churches, commercial development, and a full range of utilities and services. Currently located in the Townsite is a privately operated community correctional facility that operates under a Public Use Permit from the County of Riverside and under contract with the California Department of Corrections.

* * *

2.2.3 Land Exchange

In the proposed land exchange, BLM would convey to Kaiser approximately 3,481 acres of public land plus BLM's reversionary interest in a 465-acre parcel known as the Kaiser campsite (collectively, the "Selected Lands"). All of the selected lands are located within the Project site, and a substantial portion of them have been severely disturbed by past mining operations. In addition, a substantial portion of the Selected Lands are subject to unpatented mining claims held by Kaiser. In return for these lands, Kaiser would convey to BLM approximately 2,846 acres of land containing sensitive habitat

currently owned by Kaiser (the "Offered Lands"). The Offered Lands are located adjacent to the Eagle Mountain Railroad, outside the proposed landfill site itself, and provide habitat for sensitive species such as the desert tortoise and the desert pupfish.

In addition to the land exchange, the Project proponents have applied for two right-of-way grants. The first right-of-way is for approximately 28.6 miles of the 52-mile Eagle Mountain Railroad line, which would be used by trains traveling to the Project site. This right-of-way would be issued pursuant to the Federal Land Policy and Management Act of 1976 (as amended) and would replace an existing right-of-way that was issued pursuant to Private Law (PL) 790. The second right-of-way is for approximately 6.75 miles of Eagle Mountain Road, which would be used by trucks traveling to the Project site. This right-of-way would also be issued pursuant to FLPMA, and would be held jointly by Kaiser and the Metropolitan Water District (MWD). Both rights-of-way would be issued subject to the terms and conditions imposed on their use by BLM, including mitigation requirements.

2.3 Alternatives Considered in Detail

2.3.1 No Action Alternative

The No Action Alternative would leave the Eagle Mountain iron-ore mine site in its present condition, and the landfill would not be developed. The limited mining-related activities associated with the former mining operations would be maintained and the existing mining reclamation plan would continue to be implemented. Southern California communities would continue to rely on existing, expanded, or other new landfills. The No Action Alternative would leave the Townsite in its present condition, and no further

renovation beyond existing approved uses or that permitted and/or subject to approval would occur. The rights-of-way would not be issued, and the land exchange between the BLM and Kaiser would not occur. The other objectives listed in Section 1.3.2.1 of the Draft EIS/EIR would not be realized if the No Action Alternative were chosen.

2.3.2 Reduced Volume of Onsite Disposal Alternative

This alternative would allow for the disposal of up to 16,000 tpd of waste including up to 14,000 tpd by rail and up to 2,000 tpd by truck. The landfill operating conditions would be similar to the proposed Project. The rights-of-way would be issued, and the land exchange between the BLM and Kaiser would occur.

2.3.3 Alternate Road Access Alternative

Under this alternative, transfer trucks would use the existing Kaiser Road to bring waste to the site instead of the existing Eagle Mountain Road and its proposed extension. Because Eagle Mountain Road would not be used, no new construction of the proposed Eagle Mountain Road extension would occur. All other landfill activities of the proposed Project would remain the same. The proposed renovation of the Townsite would proceed as in the Proposed Action. The rights-of-way would be issued, and the land exchange between the BLM and Kaiser would occur.

2.3.4 Rail Access Only Alternative

This alternative would eliminate the use of all non-Chuckwalla Valley refuse-hauling trucks to the proposed site, resulting in a reduction in the capacity of the landfill to 18,000 tpd. All other landfill activities of the proposed Project would remain the same.

The proposed renovation of the Townsite would proceed as in the Proposed Action. The railroad right-of-way would be issued, and the land exchange between the BLM and Kaiser would occur.

2.3.5 Landfill on Kaiser Land Only Alternative

This alternative would allow for operation of the proposed landfill without implementing the proposed land exchange between the BLM and Kaiser. There would, however, be a modified land exchange involving a reversionary interest in some of the lands needed for the landfill and the Townsite, and the proposed rights-of-way would still be implemented. The landfill would comprise only Kaiser-owned lands in and around the East Pit (Phase 5 of landfill development under the Proposed Action). The landfill footprint would cover an area of approximately 289 acres and would accept a maximum of 10,000 tpd of municipal solid waste. Landfill design, development, operation, environmental monitoring, and closure and postclosure would be as described for the Proposed Action. The final grades for this alternative would result in an airspace of almost 183 million cubic yards (151 million tons). This alternative would have an estimated site life of 39 years. The proposed renovation of the Townsite would proceed as in the Proposed Action and the rights-of-way would be issued.

2.3.6 Landfill Development/No Townsite Development Alternative

Under this alternative, the landfill portion of the proposed Project would proceed as proposed, but the Townsite Specific Plan would not be approved, and renovation of existing structures of the Townsite

would not occur within the existing Townsite. No improvements to existing conditions would be made within the Townsite, but federal land use approvals would proceed (i.e., the rights-of-way would be issued and the land exchange between the BLM and Kaiser would occur). The existing Townsite would remain essentially unchanged from the existing condition.

2.4 Alternatives Considered but Eliminated from Further Consideration

In addition to the alternatives discussed above and evaluated in this EIS/EIR, a number of other possible alternatives were considered but eliminated from further consideration because it was determined that they would not reasonably or feasibly accomplish the primary objectives of the Proposed Action. The following eliminated alternatives are discussed in this EIS/EIR: JO Landfill on Other Kaiser Property; (2) Waste Diversion; (3) Proposed Offsite Landfill Locations; (4) Landfill Mining; (5) Alternative Townsite Locations; (6) Alternative Townsite Land Use and Densities.

3.5.1 Existing Land Uses of the Project Site

3.5.1.1 General Setting

The Project site is located in eastern Riverside County approximately 60 miles east of Indio and 50 miles west of Blythe. The Project site is situated in the foothills of the Eagle Mountains at the site of Kaiser's Eagle Mountain open-pit, iron-ore mine, which operated on a full-time basis from 1948 to 1983. The mine site is bordered on the north, west, and southwest by the Eagle Mountains and on the east and southeast by the Chuckwalla Valley. The proposed Project site is within approximately 1.5 miles of Joshua Tree National Park (JTNP) and

approximately 11 miles north of Desert Center. Access to the Project site is via road and railroad. These routes are discussed below in the context of the Eagle Mountain Mine and the Townsite (also see Sections 3.3 and 4.3).

The Eagle Mountain Townsite is located on the alluvial fan on the southern part of the Project site. Elevations range from approximately 1,000 feet on the southeast to approximately 2,800 feet on the northwest. The topography of the Project site is generally disturbed by mining operations and urban development associated with the Townsite. Natural undisturbed mountainous areas exist on the northern and western border of the mine and Townsite. To the south of the Townsite is part of the Chuckwalla Valley floor extending toward Desert Center. Portions of this area are disturbed by unimproved trails, the railroad, and utility lines, as shown in Figures 1-2 and 3.5-3.

3.5.1.2 Eagle Mountain Mine (Proposed Landfill Footprint)

Portions of the Eagle Mountain Mine are proposed for use as a landfill. The Specific Plan for the landfill includes approximately 4,654 acres of land in and around Eagle Mountain Mine. Of this total acreage, the landfill footprint (i.e., the area where waste would be disposed of) would occupy approximately 2,164 acres, and open space and ancillary facilities would occupy approximately 2,490 acres. The landfill footprint consists of substantially disturbed land from the former active operation of the Eagle Mountain Mine, including the East Pit open-pit mine. The proposed landfill footprint also contains intermittent canyon areas that are largely undisturbed. Although active iron ore mining has ceased, Kaiser

maintains a management office at Eagle Mountain and continues to engage in limited mining-related activities, such as the sale of aggregate, iron ore, and riprap. The existing land uses at the portion of the Eagle Mountain Mine proposed for use as the landfill are shown in Figure 3.5-1.

North of the mine are mountainous areas in which little or no mining activity has occurred. These mountainous areas, which are higher in elevation than the lands disturbed from mining operations, provided a buffer for surrounding land uses during full-time mining operations. The elevation of the lowest point in the East Pit is approximately 705 feet above mean sea level. It is located on the eastern edge of Kaiser's mining activity on the Project site. The mining operation extends to the north and west with site disturbance extending to elevations in excess of 2,200 feet.

An area primarily dedicated to equipment maintenance and ore processing during the past period of active mining is located south of the mine and north of the Townsite. This area is shown in Figure 3.5-1. Kaiser has been dismantling and removing the processing equipment and structures from this area since 1983. Although most of the mining equipment has been removed from the property, some mining equipment and some building and transport facility foundations remain onsite. The types of mining equipment and facilities previously at the mine include:

- Tire shop
- Rail lines
- Maintenance facility

- Lube shop
- Equipment washing facilities
- Warehouse building
- Electrical substations
- Ore loading facilities
- Storage areas (for consumables and parts)
- Office buildings
- Parking areas
- Crude ore blending areas
- Concentrate storage areas
- Crushing plants
- Concentrating plants
- Water reservoirs
- Other ancillary facilities

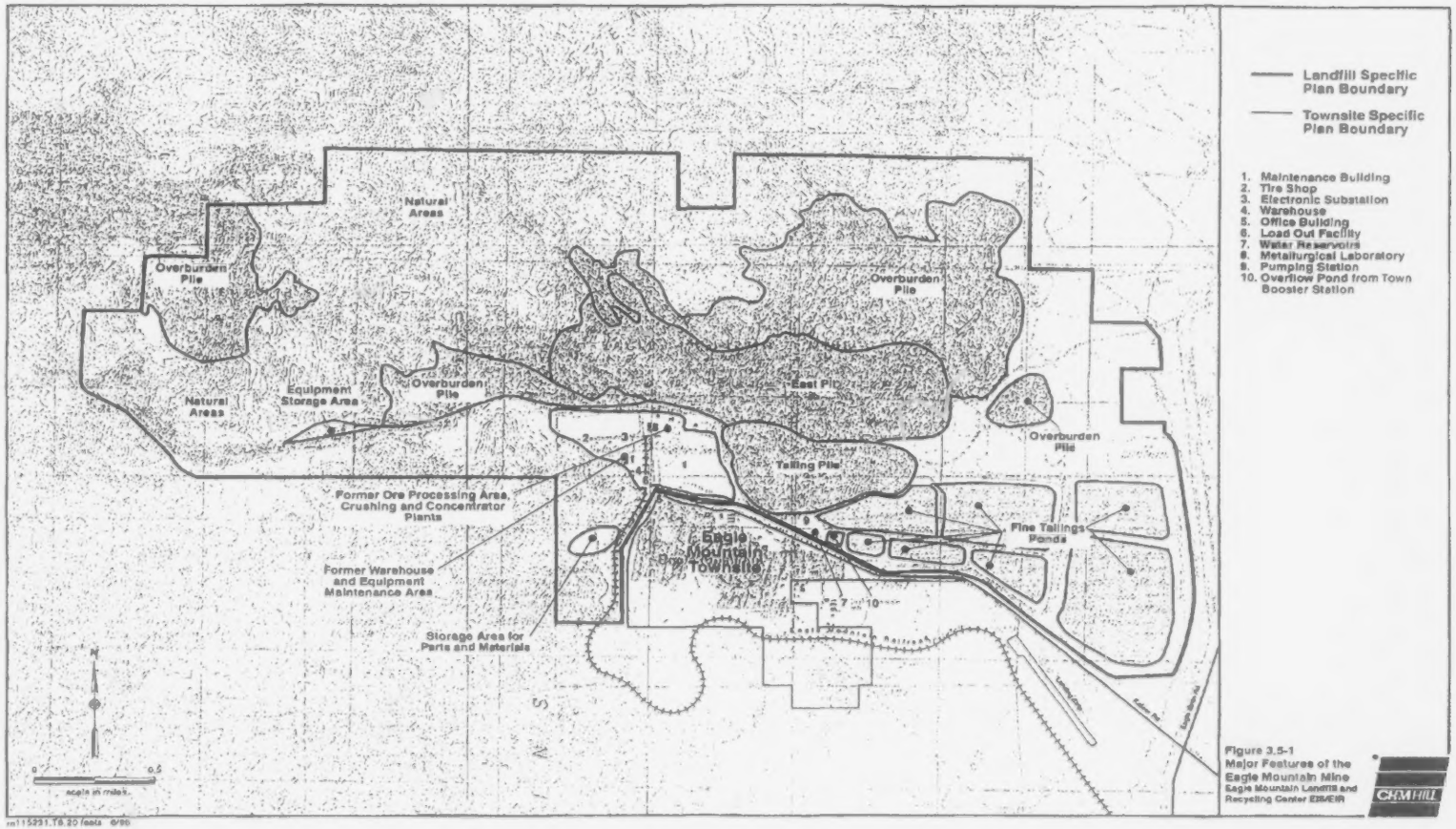

Figure 3.5-1
Major Features of the Eagle Mountain Mine
Eagle Mountain Landfill and Recycling Center EIS/EIR

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3.5-3

Major buildings and facilities that remain intact and operational include the maintenance buildings, the tire shop, the electrical substations, a warehouse, an office building, and a metallurgical laboratory building, two water reservoirs, and a pumping substation. An ore load-out facility is onsite but has been dismantled and is scheduled for removal prior to construction of the intermodal rail yard (i.e., Rail Yard I) in Planning Area 2 of the landfill. The railroad (and associated infrastructure) remains intact.

The area to the southeast of the East Pit is occupied by a coarse tailings pile from mining operations that is approximately 350 feet to 500 feet above the surrounding natural terrain (see Figure 3.5-1). Some coarse tailings also backfill a portion of the East Pit. Terraces of overburden rock and alluvium reaching a height of 600 feet above the adjacent valley floor lie immediately north and east of the pit. To the south and adjacent to the coarse tailings pile (and extending southeast of the East Pit) are dry settling ponds constructed with rock and earthen berms that rise up to 90 feet above the valley floor that (with the exception of the most eastern pond) contain fine tailings.

* * *

7.2.2 General Response 2

Several commenters stated that the Draft EIS/EIR should have evaluated other proposed desert landfill sites as alternatives to the proposed Project. In response to the concern of several commenters that other potential desert landfill sites should have been considered in the alternatives analysis of the Draft EIS/EIR, this response summarizes the EIS/EIR

analysis and conclusion that these other proposed sites are not true alternatives to the Project; rather, these sites should be, and have been, considered on the basis of their potential cumulative impacts with the Project.

The National Environmental Policy Act (NEPA) requires that an EIS contain an analysis of alternatives to the Proposed Action. The BLM's NEPA Handbook requires that an EIS describe the No Action Alternative and all reasonable alternatives, including related monitoring requirements, to the same level of detail as the Proposed Action. The BLM Handbook also requires that an EIS identify alternatives considered but eliminated from detailed analysis.

The California Environmental Quality Act (CEQA) requires that an EIR describe a range of alternatives to the proposed Project, or to its location, that could feasibly obtain the Project's basic objectives. The DR should include alternatives that could feasibly accomplish most of the basic purposes of the Project, and which could avoid or substantially lessen one or more of the significant effects of the Project. CEQA applies a "rule of reason," which requires that an EIR evaluate those alternatives that are necessary to permit a reasoned choice. The EIR must examine, in detail only, those alternatives that the lead agency determines could reasonably and feasibly attain most of the basic objectives of the Project.

The range and type of feasible alternatives that are required to be examined in the EIS/EIR depend primarily on the purpose and the objectives of the proposed Project. If a proposed alternative does not provide a reasonable and feasible option to achieve the Project's basic purposes and objectives, such a

potential alternative can and should be eliminated from detailed consideration in the Draft EIS/EIR. Although a potential alternative cannot automatically be eliminated from detailed consideration because it does not fully achieve every element of the purpose and objectives of the Project, when a potential alternative does not substantially satisfy most of the central objectives of the proposed Project it can and should be eliminated from detailed consideration.

In the case of the Eagle Mountain Project, two of the primary objectives of the Proposed Action are to develop new Class B1 nonhazardous, municipal solid-waste landfill capacity for Southern California and to obtain economic benefits from Kaisers' former Eagle Mountain Mine Site. The EIS/EIR also specifies that the Project serves a number of additional purposes, including meeting the County's financial objectives to develop a long-term source of economic benefit and establishing an Environmental Mitigation Trust for acquisition of habitat for sensitive species.

Applying the principles from NEPA and CEQA, the alternatives considered in the Draft EIS/EIR of the proposed Project were determined to be: (1) No Action; (2) Reduced Volume of Onsite Disposal; (3) Alternate Road Access; (4) Rail Access Only, (5) Landfill on Kaiser Land Only; and (6) Landfill Development/No Townsite Development. Other potential alternatives that were considered but eliminated from detailed consideration were (1) landfill on other Kaiser Properties; (2) waste diversion; (3) offsite landfill locations; (4) landfill mining; (5) alternative townsite locations; and (6) alternative Townsite land use and densities. These potential alternatives were not analyzed in detail because they do not meet the basic objectives of

the Project and/or are not within the jurisdiction of the County of Riverside.

Desert landfill proposals sponsored by others are not true alternatives because they do not meet several of the basic objectives of the Project, including development of an economically beneficial Class In landfill disposal site in the County of Riverside and reclamation of Kaiser's abandoned iron ore mine. Additionally, landfill projects sponsored by others and proposed to be located elsewhere are not "feasible" alternatives within the meaning of CEQA or NEPA. For example, there are no reasonable means by which the Project applicant could obtain another landfill project's entitlement applications and real property interests because these properties are owned and controlled by other applicants.

In addition, the County of Riverside's legal jurisdiction does not extend to other counties; thus an additional factor in the elimination of other desert landfill sites from consideration as alternatives under CEQA because the County has no feasible means to exercise police powers to gain control of property owned and controlled by others outside of its jurisdiction.

Finally, the EIS/EIR discusses the long-term need for waste disposal capacity in the Southern California region, and the need for more than one regional landfill to provide this long-term capacity. Given the capacity shortfall projected for Southern California, more than one regional landfill would be necessary to provide disposal capacity.

Thus, the proposed regional landfills at other desert locations urged by commenters to be studied would, if approved, in some measure help address the Southern California region's long-term waste disposal

needs, but they are not true "alternatives" to the proposed Project. As noted above, the sites are not mutually exclusive, and for this reason the EIS/EIR properly examines these sites in the context of their potential cumulative impacts. Reviewing these other landfill projects as reasonably foreseeable future projects presents a more conservative environmental analysis, because it discloses the aggregate of impacts from regional sites, whereas the alternatives analysis approach would treat the sites singularly and not provide that same type of analysis. This EIS/EIR discloses the full range of anticipated and potential impacts from the Eagle Mountain Project, individually as well as cumulatively, with other landfill projects.

DECLARATION OF TRUST

THE EAGLE MOUNTAIN ENVIRONMENTAL MITIGATION TRUST

THIS TRUST shall be known and identified as THE EAGLE MOUNTAIN ENVIRONMENTAL MITIGATION TRUST ("Trust").

ARTICLE 1

Parties

The Board of Supervisors of the County of Riverside, California (the individual members of which are hereinafter referred to as "Co-Trustees", and the Board itself referred to as "Trustee"), declare that Mine Reclamation Corporation, a California Corporation (hereinafter referred to as "Trustor"), has transferred to the Trustee without consideration the property described in *Schedule A* attached to this instrument.

ARTICLE 2

General Purposes

This Trust is organized for the purpose of:

A. Preserving and enhancing biological, scenic and cultural resources in Riverside County, California, and particularly in the desert regions of eastern Riverside County, by (i) providing for the acquisition, restoration, maintenance and preservation of open space lands, or interests in lands, water or water rights and wildlife habitats thereon, (ii) providing public access facilities to and within such lands, (iii) supporting research and education concerning conservation of such natural resources, and, (iv) monitoring the long-term effects of the Eagle Mountain Landfill Project ("Landfill Project") upon the desert.

B. Providing a mechanism to fulfill (i) a condition of approval imposed by the Board of Supervisors of Riverside County, California, in connection with its approval of the Eagle Mountain Landfill Project, Specific Plan No. 252 to directly mitigate environmental effects of the Landfill Project upon the desert region of eastern Riverside County, and (ii) a mitigation measure imposed by the Bureau of Land Management and required by the United States Fish and Wildlife Service in connection with its consultation with the Bureau of Land Management pursuant to Section 7 of the Endangered Species Act (16 U.S.C. §1531, et seq.) regarding the effects of the Landfill Project upon the Desert tortoise, a Threatened Species, and the Desert pupfish, an Endangered Species. The condition of approval imposed by the Board of Supervisors and the mitigation measure imposed by the Bureau of Land Management require the operator of the Eagle Mountain Landfill Project to pay one dollar ($1.00), adjusted periodically as hereinafter provided, per ton of non-hazardous municipal solid waste deposited at that facility and that the funds thus paid be utilized to fulfill the purposes set forth in Paragraph A of this Article 2.

ARTICLE 3

Trust Estate

A. The Trust Estate shall consist of any and all funds received by the Trustee from any source. All property now or hereafter subject to this Trust shall constitute the Trust Estate and shall be managed and distributed as hereinafter provided.

B. Trustor shall pay to Trustee a ($1.00) dollar per ton tipping fee ("Environmental Mitigation Trust Fee" or "EMT Fee")for all non-hazardous municipal solid

waste deposited at the Eagle Mountain Landfill Project, which fee and the expenditure thereof as required by this Trust was imposed by the Riverside County Board of Supervisors as a mitigation measure and as condition of approval of the operation of such Project and as a mitigation measure required by the Bureau of Land Management, as described in Article 2 hereof.

(1) Commencing on January 1 of the tenth (10th) year after that year in which total municipal solid waste delivered to the landfill reaches the maximum annual amount of non-hazardous municipal solid waste permitted by the County of Riverside ("Base Year") to be delivered to the Project, and on January 1 of every tenth (10th) year thereafter ("Tenth Anniversary Year"), the EMT Fee shall be modified to an amount calculated as follows:

> The then current EMT Fee multiplied by a fraction, the numerator of which is the COLA Index amount on January 1 of the then current Tenth Anniversary Year and the denominator of which is the COLA Index amount on January 1, ten years prior thereto; provide however, that in no event shall the EMT fee be less an one dollar ($1) per ton; and provided further that the increase for the next succeeding ten year period shall not exceed fifty percent (50%) of the EMT Fee in effect immediately prior to the increase as calculated pursuant to this paragraph.

(2) The COLA Index shall be the Consumer Price Index for all Urban Consumers in the Los Angeles-Anaheim-Riverside Areas (1982-1984 = 100), published by the United States Bureau of Labor Statistics. If the COLA Index specified herein is discontinued or revised during the term of the Trust, such other

government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would have been obtained if the COLA Index had not been discontinued.

C. Trustor or Trustee may also apply for and receive public and private grants, and receive gifts, donations and other financial support from public or private sources.

D. Funds from all sources shall be deposited by the Trustee in a Fund to be established and maintained as a segregated account by the Financial Officer of the Trust in accordance with paragraph E of Article 6 below.

ARTICLE 4

Powers of Trustee

In carrying out the general purposes of the Trust as described in Article 2 above, the Trustee shall have the following specific powers in addition to those powers now or hereafter conferred by law under California Probate Code Section 16200, et seq., incorporated herein by this reference, as amended or repealed and reenacted from time to time, and as supplemented or replaced by any successor statutes:

A. To purchase, receive by gift or bequest, sell, transfer, exchange, option, lease or enter into contractual arrangements, such as management agreements, with regard to open space lands and interests in such lands, including conservation easements and water rights, in order to preserve or restore such lands and interests in such lands and other natural and cultural resources of such lands.

B. To purchase, receive by gift or bequest, sell, transfer, exchange, lease, option, construct or repair

improvements, other facilities, personal property and equipment Border to restore, enhance, manage or protect wildlife habitats and other natural and cultural resources and provide public access to open space lands.

C. To conduct and direct studies, plans, research and educational programs regarding the preservation, management and restoration of wildlife habitats, ecosystems, and other natural and cultural resources.

D. To award grants or loans to private nonprofit environmental and land acquisition organizations, and to local, state and federal governmental agencies in furtherance of the powers described in Paragraphs A through C above.

E. To have and exercise all of the following powers in order to fulfill and enhance the specific powers listed in Paragraphs A through D above:

(1) To make and enter into contracts of all kinds, including appraisals, surveys, acquisition, management and operations agreements;

(2) To incur debts, liabilities and obligations, secured and unsecured;

(3) To employ agents, consultants, attorneys and employees;

(4) To be an applicant, make applications for, and receive grants from governmental and private entities;

(5) To initiate or defend, at the expense of the Trust, any litigation relating to the Trust or any property of the Trust Estate that the Trustee considers advisable, and to compromise or otherwise adjust any claims or litigation against or in favor of the Trust.

(6) To have and exercise any and all other powers not specifically mentioned above which may be necessary and proper to carry out the purposes of the Trust.

Notwithstanding any limitation on powers of a trustee or any fiduciary standard, procedure or other requirement imposed on a trustee by the California Probate Code or other applicable law, such limitation, standard, procedure or requirement shall be abrogated or modified to the extent allowable by law in order that the Trustee may, and only to the extent the Trustee is required by this Declaration of Trust to, carry out the purposes of the Trust.

ARTICLE 5

Trust Expenditures and Limitations

The Trustee shall have the power and the obligation to expend, on an annual or more frequent basis any or all of the income or principal of the Trust Estate, up to the whole thereof, as determined in the discretion of the Trustee (with the exception of payments to the National Parks Foundation, as hereinafter provided, for the benefit of Joshua Tree National Park ("Park"), which such payments shall be mandatory), but as otherwise limited or required in this Declaration of Trust. Any income not expended shall be accrued and added to principal.

A. Payments to National Parks Foundation. Ten Percent (10%) of the annual payments to the trust shall be paid by the Trustee to the National Parks Foundations ("Foundation") to be utilized by the Foundation for land acquisition, long-term research, monitoring of the effects of the Landfill Project upon the Park and to increase resource management capabilities of the National Park Service, as the Founda-

tion shall determine to be in the best interests of the Park, in order to mitigate the effects of the Landfill Project on the Park. On an annual basis, and at such time as the Trustee shall determine, the Foundation shall inform the Trustee of the intended use of the payment for the ensuing year and shall provide an accounting of such funds for the previous year, which accounting shall set forth the actual use for which such funds were utilized.

B. Acquisitions. At least eighty percent (80%) of the remaining annual expenditures by the Trustee from the Trust Estate (after payment of the mandatory ten percent (10%) appropriation to the Foundation) shall be used for the acquisition, including the purchase, lease, exchange or other transfer, of interests in real property, water and water rights within those project locations designated in Paragraph D of this Article 5 below. Expenditures pursuant to this paragraph may be made for direct acquisitions by the Trust or in the form of grants to public or private entities which are dedicated, authorized and empowered to conserve, protect, restore and enhance biological, scenic and cultural resources, to acquire specific real property, water or water rights. Applications for grants to acquire interests in real property, water and water rights shall include those protective measures the grant applicant will utilize to assure the long term use and management of the property to be acquired consistent with the purposes of this Trust.

C. Other Expenditures. The remaining twenty (20%) or less of total annual expenditures by the Trustee from the Trust Estate shall be used for all other expenses and costs of and for the Trust, including but not limited to administrative and oper-

ational costs of and for the Trust, or grants and awards to other entities related to the conduct or development of plans, studies, research, property management and education, including, but not limited to, the funding of a monitoring effort by the Bureau of Land Management, the Fish and Wildlife Service, each of which is an Agency of the Department of the Interior of the United States of America and the California Department of Fish and Game ("Long Term Monitoring Team"), to study and monitor the effects of the Landfill Project upon the surrounding desert areas, which monitoring effort shall have the highest priority call upon appropriations from the 15% portion of the expenditures. The Long Term Monitoring Team shall coordinate its efforts with those of the National Park Service funded pursuant to Subsection A hereof, to the maximum extent practicable, in order to avoid duplication of effort.

In addition, a contingency fund shall be established from funds available after the appropriations for the Long Term. Monitoring Team, for the purpose of providing a funding source for the implementation of contingency or response measures identified by the Long Term Monitoring Team or oversight committees to mitigate impacts to affected species which have not been covered under the AB 3180 Monitoring and Reporting Program or permitting conditions. The contingency fund shall be established and maintained as follows: In each of the first four (4) years that the $1.00 per ton tipping fee is paid, $75,000.00 (or such lesser amount that is available after appropriations to the Foundation and for the Long Term Monitoring Team have been made) per year shall be deposited into the contingency fund; in each of the fifth and sixth years, $100,000.00 (or such lesser amount that is available after appropriations to the

Foundation and for the Long Term Monitoring Team have been made) per year shall be deposited into the contingency fund, with the goal of establishing and maintaining a contingency fund totaling $500,000.00. If the funds in the contingency fund do not aggregate $500,000.00 by the end of the sixth year, all monies available each year after appropriations to the Foundation and for the Long Term Monitoring Team have been made shall continue to be deposited until the contingency fund totals $500,000.00. Once the contingency fund reaches $500,000.00, it shall be maintained at such level so that any funds disbursed shall be replenished (after appropriations to the Foundation and for the Long Term. Monitoring Team have been made).

D. Project Locations. Annual acquisition expenditures by the Trustee shall be restricted to or for the benefit of the following specific project locations:

(1) Joshua Tree National Park Inholdings. This area consists of private inholdings located within the Joshua Tree National Park. Notwithstanding the foregoing, the ten percent (10%) mandatory payment to the Foundation, as set forth in Section A of this Article V is intended to be utilized for this purpose, among others, and therefore, only in extraordinary circumstances should additional funds be allocated for such acquisitions from the balance of annual appropriations.

(2) Chuckwalla Bench/Desert Tortoise Habitat Area. This area is generally bounded on the west by the Orocopia Mountains, on the north by Toe of Slope and on the east by the San Bernardino National Forest boundary.

(3) Northwestern Foothills of the San Jacinto Mountains. This area is generally bounded on the west by Highway 79, on the north by Toe of Slope and on the east by the San Bernardino National Forest boundary.

(4) Snow Creek Habitat Area and Wildlife Corridor. This area is generally bounded on the west by the Santa Rosa Mountains National Scenic Area boundary, on the south by the San Bernardino National Forest boundary, on the north by the Whitewater Wilderness Study area, and on the east by the Windy Point area.

(5) Whitewater River and Mission Creek. This area is generally bounded on the west by the San Bernardino National Forest, on the south by Interstate Highway 10, on the north by Big Morongo Creek, and on the east by Highway 62.

(6) Morongo Canyons. This area is generally bounded on the west by Highway 62 and Big Morongo Canyon, on the north by Little Morongo Canyon, on the south by Toe of Slope, and on the east by Joshua Tree National Park.

(7) Santa Rosa Mountains National Scenic Area bounded on the west by the San Bernardino National Forest boundary, on the south by the ridge line, on the north by Toe of Slope, and on the east by the County line.

(8) Indio Hills. This area generally consists of the Coachella Valley, Willow Hold and Edom Hill Preserves and one or more wildlife and sand transport corridors linking the Indio Hills with the Little San Bernardino Mountains.

(9) Mecca Hills. This area is generally bounded on the west and south by the Coachella Canal, on the north by Interstate Highway 10, on the east by Meccacopia Road (between Box Canyon and the Orocopia Mountains).

(10) Orocopia Mountains. This area is generally bounded on the west by Meccacopia Road, on the north by Interstate Highway 10, on the south by the Coachella Canal and Salt Creek, and on the east by the Chuckwalla Bench/Desert Tortoise Habitat Area.

(11) Chucicwalla Mountains. This area is generally bounded on the west by the Chuckwalla Bench/Desert Tortoise Habitat Project Area, on the north by Interstate Highway 10, on the south by the Chocolate Mountains Aerial Gunnery Range, and on the east by the Little Chuckwalla Mountains.

(12) Whitewater River Delta. This area encompasses the mouth of the Whitewater River where it empties into the Salton Sea.

(13) Salt Creek/Dos Palmas Springs. This area is generally bounded on the west by the Salton Sea, on the north by the Coachella Canal, on the south by the limits of the Salt Creek watershed, and on the east by the Chocolate Mountains.

(14) Multiple Species Habitat Conservation Plan. Areas designated for acquisition pursuant to any Multiple Species Habitat Conservation Plan for the Coachella Valley adopted and approved by the Board of Supervisors of Riverside County.

(15) Anza Borrego Desert State Park. This area consists of privately held inholdings within the exterior boundaries of the Park, located within Riverside County.

(16) Wilderness Areas. Areas designated as Wilderness Areas by the Bureau of Land Management, pursuant to the laws of the United States.

(17) Other Acquisitions. Recognizing that the projects listed in items (1) through (16) of this Paragraph D shall have the highest acquisition priority, if the Advisory Committee, as defined in Article 7, advises the Trustee that acquisitions within the projects listed in subparagraphs (1) through (16) have been reasonably met, then funds may be spent in other project areas not specifically listed which are significant for the protection of open space, wildlife habitat, cultural or archaeological resources, or for the implementation of other multiple species habitat conservation plans All expenditures pursuant to the provisions of this subparagraph (17) shall require the consent of four of the five Co-Trustees.

ARTICLE 6

Successor Co-Trustees, Compensation, Expenses and Organization

A. Trustee and Successor Co-Trustees. The Co-Trustees shall consist of those individuals who serve, from time to time, as Members of the Board of Supervisors of Riverside County, California. The term of each such Co-Trustee shall be coterminous with such Co-Trustee's term as Supervisor. No accounting shall be required by any Co-Trustee upon the termination of such Co-Trustee's term.

B. Compensation and Expenses. Co-Trustees shall receive no compensation for their services. However, they shall be entitled to charge the Trust Estate with reasonable expenses. such expenses include the fees and expenses of such agents, employees, advisors and professionals as they may employ during the admin-

istration of the Trust, including but not limited to a Financial Officer, as set forth in Paragraph E of this Article 6.

C. Meetings of Trustee, Chair and Delegation of Power. The Trustee shall meet at such time and place and with such frequency as the Trustee may determine from time to time. A majority of the Co-Trustees shall constitute a quorum at any meeting of the Trustee. The act of the majority of the Co-Trustees shall be considered the act of the Trustee if acting at a meeting at which a quorum is present, except as otherwise provided herein. That Co-Trustee who then serves as Supervisor of the Fourth District, Board of Supervisors of Riverside County, California shall serve as Chair of meetings of the Trustee. A Co-Trustee may from time to time, by a writing delivered to the Chair, delegate to such Chair or to another Co-Trustee any of their powers as Co-Trustee of the Trust. Any such delegation shall terminate upon delivery by the Co-Trustee to the Chair of written notice of termination of delegation. The Chair is authorized to sign all contracts, notes, conveyances and other papers, documents and instruments in writing in the name of the Trust.

D. Third Party Reliance. Third parties dealing with the Trust may rely on Schedule B attached hereto reflecting the current members of the Board of Supervisors. This Schedule shall be updated whenever a change occurs in the composition of membership. The Schedule shall also identify the Chair of the Co-Trustees as the Supervisor of the Fourth District, who shall be authorized to sign all contracts, notes, conveyances, and other papers, documents and instruments in writing on behalf of the Trust. For purposes of conveying, transferring, granting, leasing

or acquiring title to real property, water and water rights, the Trust's interest shall vest as "The Eagle Mountain Environmental Mitigation Trust dated _____"

E. Financial Officer. The Trustee may elect or appoint a Financial Officer who need not be a Co-Trustee, and such other assistants to the Financial Officer as the Trustee deems appropriate. The Financial Officer shall be responsible for the receipt, maintenance and disbursement of all funds of the Trust Estate and for the safekeeping of all properties of the Trait. The Financial Officer shall keep or cause to be kept books and records of account and records of all properties of the Trust. Upon request, the Financial Officer shall prepare or cause to be prepared financial statements or accountings for the Trust upon an annual or more frequent basis. The Financial Officer shall be responsible for the establishment of a Land Conservancy Fund to be maintained as a segregated, interest-bearing account to hold funds of the Trust Estate as identified in Article 3 of this Declaration of Trust in such depositary or depositaries as is designated by the Trustee. Trust Estate funds shall be disbursed upon the check or draft of the Trust signed by those Co-Trustees or other individuals as may be authorized from time to time by the Trustee.

ARTICLE 7

Advisory Committee to Trustee

A. Purpose. The Trustee shall have an Advisory Committee appointed by the Trustee for the purpose of preparing recommendations to the Trustee on the expenditure of funds of the Trust Estate. Within those funding policies and guidelines as shall be

developed from time to time by the Trustee, the Advisory Committee shall develop and implement a grant or award application procedure for purposes of soliciting, evaluating and establishing priorities among land acquisition proposals and other funding and loan requests, and shall then report such recommendations to the Trustee. The Advisory Committee shall also make recommendations regarding annual expenditures and long-term funding priorities from time to time as requested by the Trustee.

B. Composition. The Advisory Committee shall be appointed by the Trustee on an annual basis, and shall consist of the following nine (9) individuals, all of whom shall be residents o Riverside County:

(1) Two (2) members of the Board of Supervisors of Riverside County, California;

(2) Two (2) citizens appointed by the Board of Supervisors of Riverside County, California, one of whom-shall be a Native American;

(3) Two (2) citizens nominated by the Coachella Valley Mountains Conservancy;

(4) One (1) citizen nominated by The Nature Conservancy;

(5) One (1) citizen nominated by The Sierra Club; and,

(6) One (1) citizen nominated by The Desert Protective Council.

In addition, each of the following organizations shall be entitled to appoint one representative who shall attend but have no vote at meetings of the Advisory Committee: the California Department of Fish and Game; the United States Department of the Interior Fish and Wildlife Service; the United States

Department of the Interior Bureau of Land Management; the United States Department of the Interior National Park Service; and the University of California Natural Reserve System. Representatives or citizens to be appointed by entities, including the Trustee, shall be selected by such entities in their discretion. Vacancies on the Advisory Committee shall be filled for the unexpired portion of the term in the same manner as provided in the case of original appointment.

C. Meetings; Quorum. The Advisory Committee shall meet at least annually and more frequently as shall be determined by such Committee within those directives, rules and regulations as the Trustee may adopt from time to time. The Trustee shall also designate the quorum and voting requirements for the Advisory Committee with respect to those matters which come before such Committee.

ARTICLE 8

Revocation and Amendment of Declaration of Trust

This Declaration of Trust may be amended or restated and amended by unanimous vote of the Trustor (which shall include any successor owner and operator of the Landfill Project) and Trustee, at a duly-held meeting of the Trustee or by unanimous written consent of the Trustor and Trustee, provided that no amendment shall authorize the Trustee to conduct the affairs of this Trust in any manner or for any purpose contrary to the provisions of §501(c)(3) of the Internal Revenue Code of 1986 as now in force or amended, nor shall any such amendment or restatement be inconsistent with the primary purposes of the Trust as set forth in Article II hereof. Notice of any revocation, modification or amendment of this

Declaration of Trust shall be provided to the Attorney General, State of California, Charitable Division.

The Trustee are authorized to form and organize a non-profit public benefit corporation under the laws of the State of California, the purpose of which corporation shall be limited to accomplishing those general purposes identified in Article 2 above. Such corporation, when organized, shall have the power to administer and control the affairs and property and to carry out the uses, objects, and purposes of this Trust. Upon the creation of such corporation, the Trustee is authorized and empowered to convey, transfer, and deliver to such corporation all the property and assets to which this Trust may be or become entitled. The charter, articles, bylaws and other organizational documents and provisions for the organization and management of such corporation and its affairs and property shall be consistent with the terms of this Trust.

ARTICLE 9

General Provisions

A. Bonding. All employees or agents handling funds of the Trust Estate shall be bonded as required by law or as required by the Trustee.

B. Tax Year. The tax year of the Trust shall be a calendar year.

C. Tax-Exempt Organization Restrictions. The Trust is organized and operated exclusively for charitable, educational and scientific purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as subsequently amended (hereinafter the "Code"). Notwithstanding any other provision of this Declaration of Trust, the Trust shall

not conduct or carry on any activities not permitted to be conducted or carried on (i) by any entity exempt from federal income tax under the provisions of the Code or (ii) by an entity contributions to which are deductible under Code Section 170(c)(2). No substantial part of the activities of the Trust shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Trust shall not participate in or intervene in (including the publishing or distribution of statements) any political campaign. on behalf of (or in opposition to) any candidate for public office. The property of the Trust is irrevocably dedicated to the purposes set forth in Article 2 of this Declaration of Trust, and no part of the net income or assets of the Trust shall inure to the benefit of, or be distributable to, any Trustee of the Trust or to any other private individual, except that reasonable compensation may be paid for services rendered to, or reimbursement for expenses incurred for, the Trust, affecting one or more of its purposes. Upon the termination, revocation or winding Up of the Trust, its assets remaining after payment, or provision for payment, of all debts and liabilities of the Trust shall be distributed to one or more exempt organizations of the kind described in the Code, and shall not inure to the benefit of or be distributable to any Trustee of the Trust or other private individual.

C. Annual Accounting or Financial Statements. An accounting or financial statements shall be prepared and provided to the Co-Trustees as soon as reasonably practicable after the close of the Trust's tax year. The financial statements shall contain in appropriate detail the following: the assets and liabilities of the Trust Estate as of the end of the tax year; the principal changes in assets and liabilities of

the Trust Estate during the tax year; the revenue or receipts of the Trust for the tax year; the expenses or disbursements for the Trust for both general and restricted purposes for the tax year. Any accounting or financial statements furnished to the Co-Trustees shall be accompanied by any report of independent accountants, or if there is no such report, the certificate of the Financial Officer of the Trust that such statements were prepared without audit from the books and records of the Trust. Except as otherwise required in this Paragraph C, no accounting shall be required to be made or provided to any beneficiary of the Trust.

D. Trustee Construction of Instrument. The Trustee may construe this instrument, and any action taken relying upon such construction shall be binding on all concerned and shall fully protect the Trustee even though it may subsequently be determined that such construction is erroneous.

E. Fiduciary Liability. Except for any matter involving a Trustee's own individual Willful misconduct or gross negligence, no Trustee hereunder shall incur any liability by reason of any error of judgment, mistake of law, or any action of any kind taken or omitted to be taken hereunder if in good faith reasonably believed by the Trustee to be in accordance with the provisions and intent hereof. No Trustee hereunder shall be liable for any action taken or not taken in reliance on the opinion of any counsel, agent or other representative, provided such counsel, agent or other representative was selected by the Trustee with reasonable care and in good faith.

F. Governing Law. This Trust has been accepted by Trustee in the State of California and, unless otherwise provided in this instrument, its validity,

construction and all the rights under it shall be governed by the laws of that state.

G. Rule Against Perpetuities. This Trust shall terminate and all assets of the Trust Estate shall be distributed in accordance with Paragraph C above no later than twenty-one (21) years after the death of the last member of the group composed of the Co-Trustees and all of their lawful issue alive on the date of execution of this Declaration of Trust.

EXECUTED at Riverside, California, this_____day of_____, 199___.

_____
Co-Trustee

_____
Co-Trustee

_____
Co-Trustee

_____
Co-Trustee

_____
Co-Trustee

WE CERTIFY that we have read the foregoing Declaration of Trust consisting of twelve (12) pages, excluding this page signed by us, and that it correctly states the terms and conditions under which the Trust Estate is to be held, managed and disposed of by the Trustee. We approve the Declaration of Trust

in all particulars, and request the Trustee to execute it.

Dated:_____, 199__, at Riverside, California.

_____

President, Mine Reclamation Corporation, Trustor

_____

Secretary, Mine Reclamation Corporation, Trustor

SCHEDULE A

We certify that the foregoing schedule, designated *Schedule A*, describes property transferred and delivered by us to Trustee this date as property to be administered in accordance with that Declaration of Trust executed by us under date of_____

Dated:_____

_____

Co-Trustee

_____

Co-Trustee

_____

Co-Trustee

_____

Co-Trustee

_____

Co-Trustee

APPENDIX B

JOSHUA TREE NATIONAL PARK GENERAL MANAGEMENT PLAN AMENDMENT

PURPOSE OF AND NEED FOR THE PLAN

BEST AVAILABLE COPY

INTRODUCTION

OVERVIEW

An amendment to the *General Management Plan for Joshua Tree National Park* is needed to guide the management of natural and cultural resources, visitor uses, and NPS administrative practices in the natural zone of what was Joshua Tree National Monument. It would also zone all of the approximately 234,000 acres added to the national park on October 31, 1994.

This draft GMP amendment and environmental impact statement presents a proposed action and three alternatives (including a no-action alternative). After review, comment, and modification, the final version of this draft, when used together with the 1995 *General Management Plan*, will guide management of Joshua Tree National Park for the next 15-20 years. During that time the National Park Service could alter decisions made under this plan only with compliance with the National Environmental Policy Act, public involvement, and other consultation as required by law. Because this amendment primarily addresses wilderness and backcountry management issues, the National Park Service will review the adopted alternatives at five-year intervals.

The proposal and the alternatives in this draft GMP amendment recommend actions that would better protect the park's resources and afford visitors a wide array of recreational opportunities. This document also analyzes the environmental consequences of each alternative.

BRIEF DESCRIPTION OF THE PARK

Joshua Tree National Park is located in the Mojave and Colorado Deserts of southern California. The

park lies along the east-west transverse ranges of the Little San Bernardino Mountains. The south boundary follows the base of these mountains along the northern perimeter of the Coachella Valley; the north boundary is defined by the Morongo Basin. The park lies in San Bernardino and Riverside Counties.

Wilderness

Of the park's more than 794,000 acres, 585,040 acres are legislatively designated as wilderness or potential wilderness and are set aside for the preservation of the most primitive and unconfined forms of recreation. Access is limited to hikers and pack animals and development is generally prohibited.

Features

The compressed transition zone between the Mojave and the Colorado Deserts makes it possible to cross from one desert to the other in less than 65 miles. The park contains all or portions of the San Bernardino, Cottonwood, Hexie, Pinto, Coxcomb and Eagle Mountain ranges. The eastern portion of the park averages 2,000 feet in elevation, while the western half is mostly above 4,000 feet. Extremes in elevation range from 1,000 feet at Pinto Well to 5,900 feet at Quail Mountain. Major valleys include the Pinta Basin, Juniper Flats, Covington Flats, Pleasant, Queen and Lost Horse.

Joshua Tree has unusual desert plants and animals and spectacular geological formations. The name Joshua Tree signifies that the park has a natural history focus, but the area also has a rich and varied cultural history. Humans, from prehistoric times to the present, have lived in this desert environment.

PLANNING DIRECTION

NPS management goals guided the formulation of the proposed action and the alternatives. The management goals are derived from:

- park purpose
- significant resources
- primary interpretive themes

On October 31, 1994, Congress established Joshua Tree National Park and abolished the national monument of the same name that had been proclaimed in 1936. In creating Joshua Tree National Park and other federal reservations in the California desert Congress intended to:

- preserve the unrivaled scenic, geological, and wildlife values associated with these spectacular natural landscapes
- perpetuate the significant and diverse ecosystems of the California desert in their natural state
- protect and preserve historical and cultural values of the California desert associated with ancient Indian cultures and western exploration and settlement
- preserve sites that exemplify the mining. ranching, and railroading history of the old West
- provide opportunities for compatible outdoor recreation, protect and interpret ecological and geological features and historic, paleontological, and archeological sites, maintain wilderness values, and promote public under-

standing and appreciation of the California desert

- retain and enhance opportunities for scientific research in undisturbed ecosystems

The act of August 25, 1916, the organic act of the National Park Service (16 USC 1), prescribed that the "fundamental purpose of . . . parks . . . is to conserve the scenery and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." In 1970 Congress declared that the organic act provisions, including the statement of fundamental purpose, would apply to all areas of the national park system "to the extent that such provisions are not in conflict . . ." with the statute that specifically applies to that particular area (16 USC (c[b]).

The vast majority of the land in Joshua Tree National Park is designated by law as wilderness, either by the act of October 20, 1976 or the act of October 31, 1994. The Wilderness Act of 1964 further describes the purpose of wilderness designations, which is to preserve lands in their natural condition "for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness."

The Wilderness Act defines wilderness as "an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain, . . . an area of undeveloped Federal land retaining its primeval character and influence without permanent improvements or human habitation, which is protected and managed

so as to preserve its natural conditions . . ." The Wilderness Act also generally prohibits motor vehicles, motorized equipment, mechanized transport, motorboats, permanent roads, temporary roads, landing of aircraft, commercial enterprises, and structures and installations. The act contains some limited exceptions to these prohibitions.

The purpose of Joshua Tree National Park is to preserve the natural and cultural resources of the Mojave and Colorado Deserts so that the resources can be interpreted, understood, and enjoyed by present and future generations.

RESOURCE SIGNIFICANCE

Natural Resources

Joshua Tree National Monument was originally set aside to preserve an ecologically dynamic component of the California Desert—much more than just Joshua trees. The east-west Transverse ranges support examples of Mojave and Colorado Desert ecosystems. The elevations range from almost 6,000 feet to near sea level, which creates an unusual compressed transition zone between the Mojave Desert and the Colorado province of the Sonoran Desert. Early proponents of the monument envisioned a representative segment of the two deserts that would be large enough to embrace a self-sustaining natural system. This system contains biotic and abiotic components that influence each other and are in turn influenced by climate, fire, earthquakes, and other natural phenomena. In 1994 the California Desert Protection Act enlarged the monument to key parts of the Transverse ranges so that the park would have boundaries that were ecological.

The park's central natural resources include the Mojave and Colorado Desert vegetative communities and the wildlife that is dependent on them. Most notable are the Joshua tree forests, the fan palm oases, and riparian communities. Animals such as bighorn sheep, desert tortoise, deer, coyote, bobcat, mountain lion, and a wide range of birds and reptiles are prominent. Water, in the form of springs and seeps and occasional sheet flows conserves the plants and wildlife.

There are exceptional geological features in the park. Mountains and basins dominate the landscape. Unusual and attractive rock formations rise from the desert.

Clean and unpolluted air affords distant vistas, another essential natural resource. Along with air quality, natural quiet and clear night skies are essential for the visitor to realize the beauty and tranquility of the park.

Cultural Resources

The geological and biological diversity of the Joshua Tree area supported early human subsistence. In the post-Pleistocene epoch, the climate was milder and wetter than it is today. The Pinto Basin was a shallow lake 5,000 to 7,000 years ago, narrowing to a river or stream.

Along its banks lived the people of the Pinto Basin complex. Big game hunting was the predominant means of subsistence because the water and lush vegetation lured animals to the area. As the climate changed, the Pinto Basin slowly dried up and populations of animals and people diminished. Human occupancy concentrated outside what is now the park to the palm canyons in the lower valleys and to the

cooler mountains. People returned seasonally to what is now the park area to trade, hunt, and harvest.

The park contains early Pinto culture sites and traces of other prehistoric and historic American Indian cultures as well as remains of Euro-American gold mining, homesteading, and subsistence cattle ranching. The park is archeologically, ethnographically and historically diverse and exhibits a continuum of cultural adaptations. There are significant collections of prehistoric and historic American Indian artifacts and late 19th-century and early 20th-century non-Indian artifacts. These artifacts document the park's importance to east-west migrations from prehistoric times. The remnants of past human occupations illustrate the adaptations that different groups made to the arid desert environment.

Recreational Resources

The natural and cultural resources provide outstanding recreational opportunities for the more than 1 million visitors who come to the park annually. Topographic relief and associated changes in temperatures encourage year-round visitor use. The park provides some of the most diverse desert wildflower displays in the southwestern United States. There is also a wide variety of wildlife to observe; Joshua Tree is a popular location for the sightings of particular bird species not easily found elsewhere. Opportunities to see, photograph, and study cultural resources also draw visitors. Old mines, ranches, and prehistoric rock art are all popular. Massive boulders and rock outcrops provide some of the best rock climbing in the country. Many families like to camp in the park so that they can scramble on the maze of boulders nearby. Skilled and novice technical rock

climbers from around the world are attracted to the challenging climbing routes.

Wilderness Resources

The wilderness resource is a preeminent feature of the park. Approximately 75% of the park has been designated by Congress as wilderness. Wilderness provides an opportunity for recreational experiences that are primitive, nonmechanized, and nonmotorized, such as hiking, horseback riding, and climbing. Such experiences are intended to provide opportunities for solitude. In wilderness, visitors do not remain; they leave the area in an unimpaired state, with little or no trace of their presence.

PRIMARY INTERPRETIVE THEMES

The following interpretive themes are the most important concepts for visitors to understand about the park:

(1) Joshua Tree National Park is comprised of two biologically different environments, the Mojave and the Colorado Deserts, that merge within the park boundaries to create an unusual ecological transition zone. Lush palm oases and springs draw importance to the essential nature of water to a healthy, functioning desert ecosystem.

(2) The Joshua Tree, with its unusual shape and adaptation, is a perfect vehicle for understanding the interdependence of organisms living in the desert.

(3) Plants and animals have evolved to survive in the heat and drought. These adaptations produced an interesting array of life-forms. Humans, from prehistoric times to present, also

adapted to an environment with little water. People who have made this area their home adapted and provided a colorful and varied human history.

(4) The picturesque landscape, including mountain ranges, desert basins, and massive rock outcrops, contributes to the park's significance. The dynamic processes that formed the area, including erosion and earthquakes continue.

(5) Deserts have suffered a great deal of human abuse. The arid landscapes are slow to heal, and tracks made by a single vehicle in the desert soil can often be seen for many years. Fragile desert ecosystems survive in a delicate balance. They quickly manifest even the subtle environmental changes brought about by humans. Protection of the California Desert can only be accomplished from an ecosystemwide perspective that promotes harmonious relationships between people and the environment. The "leave no trace" ethic must be taught to park visitors.

(6) Wilderness is an area of special protection affected primarily by the forces of nature. The imprint of human activities is substantially unnoticeable. People are visitors who do not remain. The park offers the opportunity for visitors to experience nearly 600,000 acres in one of the largest wilderness areas remaining in southern California.

There are a number of natural and cultural history interpretive themes in the broader context of the national park system, including plains, plateaus, mesas, cuestas and hogbacks, mountains, volcanism, sculpture of the land, caves and springs, paleonto-

logical epochs, deserts, streams, cultural development, indigenous people, and European colonial exploration and settlement.

MANAGEMENT GOALS

The *General Management Plan* developed goals to achieve the park's purpose. This amendment retains those goals, which are to:

manage land and wilderness to preserve them unimpaired for future generations

participate cooperatively in the preservation of ecological units that extend beyond the park boundary

improve knowledge of natural and cultural resources

manage visitation more effectively and. reduce impacts associated with dispersed and poorly defined visitor use facilities

educate park visitors regarding the NPS mission and the mutual and cultural resources of the park

facilitate cooperative planning throughout the California Desert ecosystem with other public agencies and communities

improve park circulation; focus on safety. visual quality, and visitor experience

improve the effectiveness of park operations

These eight goals would be achieved in different ways and to varying degrees by the proposed action or the alternatives.

The *General Management Plan* recommended that this *Draft Backcountry and Wilderness Management*

Plan be written to guide management of the natural zone of Joshua Tree National Monument and the 234,000 acres added to the park on October 31, 1994. The *General Management Plan* divided the old monument into management zones: development, natural, and cultural. The natural zone was further subdivided into the natural environment and wilderness subzones. The *General Management Plan* focused almost entirely on the park development zone and deferred to this amendment to address backcountry and wilderness management.

Planning issues for this amendment were identified through public scoping process, in the *General Management Plan* itself, or as a result of other statutory requirements. The major planning issues are:

MANAGEMENT ZONING

The addition of 234,000 acres to the park required that the National Park Service include that land within the framework of management zones that was established for the former monument. Congress has designated certain of the added land as wilderness, which automatically places it in the wilderness subzone of the natural zone. Some of the land is not wilderness but will not be developed. This land would be zoned as the natural environment subzone or as the back-country transition subzone. Some of the added land could be zoned for development to accommodate roads. Congress provided for the protection and conduct of special right-of-way activities by the Metropolitan Water District (MWD) of Southern California on some of the added land, which will be designated as a special use zone.

VISITOR ENJOYMENT

Trails

Inadequate control over the actions of the increased number of visitors has resulted in impacts to resources. The proliferation of trails created not by thought or design but by passage of people or animals has created a network of often redundant social trails that impact vegetation. The social trails concentrate use in only a small part of the park while other areas, suitable for similar experiences, are ignored. They cause compaction of the soils and denude areas of vegetation. Designation of a trail network could minimize such impacts.

Climbing

The use of fixed anchors (such as expansion bolts) far rock climbing has created a need to evaluate whether the permanent installation of such fixtures into rock faces is compatible with wilderness values and the NPS mandate to preserve resources unimpaired. Since February 1993 the park has prohibited new bolts and replacement of existing bolts in wilderness until this plan decides the issue. Managing climbing so that the park provides a wide variety of climbing experiences (from well-aided climbs to clean climbing) is an important consideration. Visitor access to boulders and rock faces has created multiple short trails and damage to resources at the rock bases. The peek seeks the cooperation of the climbing community in marking access points and trails.

Roads

The new land added in 1994 contains over 100 miles of dirt roads or tracks—a few were constructed, but most were created by the passage of vehicles.

This system of roads, cracks, and jeep trails often leads to campsites marked by liner, fire rings, circles of compacted soil, areas denuded of vegetation, and hill-climb areas. Some of the roads, tracks, and jeep trails are in designated wilderness and are automatically closed by law. They are not subject to the decision-making processes of this plan. Other traverse nonwilderness added to the park in 1994. Such roads provide four-wheel-drive access to scenic areas, which could be important to maintain. Holders of valid mining claims or owners of inholdings might have to use dirt roads or tracks that could be closed by the wilderness designation or by actions recommended in this plan. Such use would require NPS authorization.

Automobile Camping

Park regulations require that visitors in automobiles camp only in designated and established campgrounds. This policy should be examined to determine if the automobile camping should be permitted along dirt roads.

Group Sizes, Backcountry Camping, and Area Closures

Group size limits have not been imposed on overnight or day users of the natural zone. A management concern and planning issue involves the possible adoption of group size limits to enhance the visitor experience of the backcountry transition and wilderness subzones.

A related planning issue involves whether to limit backcountry camping to designated and hardened sites or to permit dispersed camping anywhere in the backcountry under some or no specific restrictions. One area (Keys Ranch) has been closed to all visitors

except when accompanied by NPS personnel. This restriction is for the protection of cultural resources. Other areas are limited to day use only for the protection of wildlife, park facilities, and historic sites. Decisions must be made about closures—whether fewer or more areas should be closed issues and and whether such closures should be day use, seasonal, or year-round.

The act of November 10, 1978 (16 USC 1a-7[b]), requires that every *General Management Plan* prepared by the National Park Service include identification of visitor carrying capacities. The National Park Service has concluded at this stage in the planning process that insufficient data exists to establish a carrying capacity for the natural zone of the park and for all land added to the park in 1994.

RESOURCES MANAGEMENT

Artificial Water Sources

Several artificial water sources ("guzzlers"), primarily for bighorn sheep, have been constructed on park land. Two such sources are on former BLM land. There are circumstances under which the artificial manipulation of natural systems could be permissible in the park, including in wilderness. However, such artificial sources may have been installed without attention to NPS management objectives. Some water sources no longer function and have been broken for a long time. Other systems may or may not serve their intended purpose. The question is whether any some, or all of the artificial sources should remain.

Desert Tortoise

On June 28, 1994, the U.S. Fish and Wildlife Service adopted a recovery plan for the Mojave population of the desert tortoise (*Gopherus agassizii*). The recovery plan recommended that federal land managing agencies, primarily the Bureau of Land Management and the National Park Service, designate desert wildlife management areas on the land that the agencies administer. A designated desert wildlife management area is a geographic area of a prescribed minimum size and general location, arrayed in relationship to other such areas, to protect a full complex of desert wildlife, including the desert tortoise.

Although designated desert wildlife management areas are a creation of the *Desert Tortoise Recovery Plan*, their aim is to protect a diverse ecosystem composed of many species at a landscape level. The National Park Service generally refrains from single species management, although species listed under the Endangered Species Act are an exception to this policy. Moreover, designation of a management area is more than single species conservation. It emphasizes protection of sensitive as well as nonsensitive components of communities and protects tortoise habitat as well as habitat for other native species.

The recovery plan recommended the kind of activities that should or should not be permitted in a management area to minimize human impact on the survival of the officially threatened desert tortoise. The recovery plan recommended the designation of a Joshua Tree designated wildlife management area that is largely coterminous with the park. The planning issue involves the extent to which the National

Park Service and this draft GMP amendment will seek to implement the *Desert Tortoise Recovery Plan.*

ADJACENT LAND USE

Developments and other land uses adjacent to the boundary threaten the integrity of the park's resources and wilderness values. Surrounding land use has changed significantly since the 1916 proclamation of the monument. Towns and cities, interstate and state highways, subdivisions, utility corridors, mining, military facilities, and agricultural interests are now on or near the park boundary. The Eagle Mountain landfill has been proposed near the southeast boundary and is the subject of great controversy. Other concerns include the effects of air and water pollutants, invasion of nonnative species from adjacent land, groundwater drawdown, and noisy aircraft overflights that affect wilderness solitude. The park's resources are seriously threatened by illegal activities and uncontrolled access along the boundaries, such as off-road vehicle use, theft of desert vegetation and archeological resources, poaching and reptile collecting, wood cutting, and dumping of hazardous and nonhazardous solid waste.

Joshua Tree has been part of a international biosphere reserve since 1984. Fulfillment of the biosphere reserve concept and long-term protection of ecological units that extend outside of the boundary are made more difficult by land use and development around the park. Congress revised the monument boundaries in 1950 to exclude nearly 250,000 acres to accommodate mineral extraction: The configuration of the 1936 monument that had been designed by biologists to protect the natural systems of two deserts was destroyed in many areas. Congress acted

in 1994 to return substantial portions of the land removed in 1950.

The development of the west Mojave and northern and eastern Colorado coordinated management plans will assist in ensuring protection of ecological units in the California Desert. These interagency plans are led by the Bureau of Land Management with NPS participation. The plans will adopt the management strategies of this draft GMP amendment and will meld those strategies with activities on adjoining land.

RELATIONSHIP TO OTHER PLANS

The final version of this draft GMP amendment will constitute the *Joshua Tree National Park Back-country and Wilderness Management Plan*

Other plans that address park management at a more detailed level already exist, such as the *Fire Management Plan*. Other plans may have to be revised or developed. The *Land Protection Plan* of 1986 was amended in 1996. Both the original *Land Protection Plan* and the 1996 revision concluded that the National Park Service should acquire nearly all 57,000 acres of nonfederal land in the park (the exception would be the congressionally protected MWD land). The *Land Protection Plan* regards all land as essential to protecting the resources of the park and advocates making them available for public enjoyment.

There are 12 patented and 68 unpatented mining claims in the park. The National Park Service is in the process of determining the validity of several of those claims. Anticipated development associated with the claims is minimal. There is no need for Joshua Tree National Park to develop a separate

Minerals Management Plan. Instead, the *Report on Claim Status for Joshua Tree National Park* was prepared. That report, dated March 26, 1997, lists all claims, pinpoints their general location on master title plats. and provides relevant information.

The National Park Service will manage claims in accordance with the regulations at 36 CFR part 9, subpart A and the NPS *Guide to Managing Mining Claims*. All operations in connection with a claim require an NPS-approved plan of operations. Operations include access to a claim other than by foot or pack animal. Prior to approving operations in connection with claims, the National Park Service will first determine if unpatented claim are valid. This requirement does not apply to the 12 patented claims. For any operation that merits NPS approval, the National Park Service would first seek to acquire the claim. Any operator meeting NPS standards must also be in full compliance with laws of the state of California and the counties of Riverside and San Bernardino. Approved operations would be governed under the 9A standards, which require a bond and reclamation. The bond would always be posted with the secretary of the interior or his designee, the superintendent of Joshua Tree National Park.

Abandoned mines are a minerals management issue. The most significant of the mines is a MWD of Southern California gravel pit, approximately 20 acres in size, in the east Coxcomb Mountains Ownership of this land may soon pass to the National Park Service. Many other small scars remain from decades of mining.

The *Resources Management Plan* (RMP) was adopted in 1993. It contains a project statement on the reclamation and restoration of disturbed land

(including closed tracks and dirt roads) that will be updated to include the land that was added to the park in 1994. It will establish a protocol for the systematic monitoring of visitor impacts to the natural and cultural resources of the backcountry transition and wilderness zones and will consider new project statements, including one for the reestablishment of pronghorn antelope to its former range in the park.

The National Park Service will revise the RMP project statement on inventory, documentation, evaluation, and management of cultural resources to include the land added in 1994.

The *Interpretive Prospectus* will not be revised as a result of this draft GMP amendment. However, the National Park Service may have to revise the Compendium of public use restrictions, closures, and conditions as required by regulations at 36 CFR 1.5 upon the adoption of the proposed action or other alternatives in this plan. The environmental impact statement constitutes the environmental review under applicable laws for any revisions to the Compendium.

The decisions made as a result of the final approved version of this draft plan will be incorporated into the ongoing west Mojave and northern and eastern Colorado Desert coordinated management plans. The Bureau of Land Management is the lead federal agency in the development of those plans.

APPENDIX C

PRIVATE LAW 790

* * * *

connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Approved July 3, 1952.

Private Law 789 CHAPTER 573

AN ACT

For the relief of Peter Mihaly Berend.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding those provisions of section 4 of the Displaced Persons Act of 1948, as amended, relating to date of application for an adjustment of immigration status, Peter Mihaly Berend may, at any time within six months following the effective date of this Act, apply to the Attorney General for an adjustment of his immigration status, and notwithstanding those provisions of said section 4 relating to status at the time of entry Peter Mihaly Berend shall, if he is otherwise qualified under the provisions of said section 4, be deemed to be a displaced person within the meaning of said section 4.

Approved July 3, 1952.

Private Law 790 CHAPTER 589

AN ACT

To authorize the granting to Kaiser Steel Corporation of rights-of-way on over, under, through, and across certain public lands, and of patent in fee to certain other public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized to grant to Kaiser Steel Corporation, a corporation organized and existing under and by virtue of the laws of the State of Nevada, permanent rights-of-way, not exceeding two hundred feet in width, on, over, under, through, and across public lands of the United States in the county of Riverside, State of California, in the townships, ranges, and sections described in section 2 of this Act, for the purposes of construct-operating, and maintaining any and all works, structures, facilities, roads, railroads, power lines, and pipelines necessary, convenient, incidental, or appurtenant to the operation of the mines, camp sites, and mill sites of Kaiser Steel Corporation in the vicinity of Eagle Mountain, Riverside County, in the State of California: *Provided*. That such rights-of-way be subject to existing rights in conflict therewith and shall be subject to reversion to the United States if the rights-of-way are abandoned or not used for a continuous period of seven years by said corporation or its successors in interest: *Provided further*. That the Secretary of the Interior shall attach and impose such further conditions on said rights-of-way, and promulgate such rules and regulations as he shall deem appropriate, consistent with the use of said rights-of-way for the purposes described in this Act.

SEC. 2. Said rights-of-way shall extend through all lands owned by the United States or any department or agency thereof in any of the following townships, ranges, and sections of Riverside County, the State of California:

(a) Township 8 south, range 11 east, sections 20, 29. 28, 27, 21, 22, 23, 14. 13, and 12; township 8 south, range 12 east, sections 7, 8, 9, 10, and 3; township 7 south, range 12 east, sections 34, 35, and 36; township 7 south, range 13 east, sections 31, 32, 29, 28, 21, 22, 23, 14, 13, and 12; township 7 south, range 14 east, sections 7, 8, 5, and 4; township 6 south, range 14 east, sections 33, 28, 21, 16, 9, 8, 7, and 6; township 5 south, range 14 east, sections 31, 32, 29, 28, 27, 26, 23, 24, 13, and 12; township 5 south, range 15 east, sections 7 and 6; township 4 south, range 15 east, sections 31, 30, 19, 20, 17, 18, 7, and 6; and continuing through townships 4 south and 3 south, range 14 east, to a terminal point at the site of the mill and camp of Kaiser Steel Corporation in the vicinity of Eagle Mountain in the State of California.

(b) Township 4 south, range 15 east, sections 30, 19, 20, 17, 18, and 7, and continuing through townships 4 south and 3 south, range 14 east, to a terminal point at the site of the mill and camp of Kaiser Steel Corporation in the vicinity of Eagle Mountain in the State of California.

(c) Township 3 south, range 15 east, section 31, and continuing through townships 4 south and 3 south, range 11 east, to a terminal point at the site of the mill and camp of Kaiser Steel Corporation in the vicinity of Eagle Mountain, in the State of California.

SEC. 3. The Secretary of the Interior be, and he is hereby, further authorized to grant a patent in fee to Kaiser Steel Corporation, a corporation organized and existing under and by virtue of the laws of the State of Nevada, that property located in townships 4 south and 3 south, range 14 east, Riverside County, California, which said Kaiser Steel Corporation now maintains as a camp site and mill site in connection with its mining operations, and which is composed of four hundred sixty-five and eighty-five one-hundredths acres, more or less: *Provided,* That such patent shall be subject to a reservation to the United States of all deposits of minerals together with the right of the United States, its agents, permittees, lessees, or assigns to enter upon, prospect for, mine, and remove such minerals under the laws of the United States and regulations prescribed by the Secretary of the Interior: *Provided further*, That said property shall revert in fee to the United States in the event that said property is not used for a continuous period of seven years as a camp site or mill site or for other incidental purposes in connection with the mining operations of said corporation or its successors in interest.

SEC. 4. The Secretary of the Interior shall fix, and Kaiser Steel Corporation shall pay, a reasonable sum or sums to the United States, including compensation for the cost of surveys necessary to carry out the grants and patent authorized hereby, as consideration for such grants and patent. Said grants and patent shall include suitable detailed descriptions of the property covered thereby.

Approved July 8, 1952.

* * * *

Private Law 790 Chapter 589

AN ACT

To authorize the granting to Kaiser Steel Corporation of rights-of-way on, over, under, through, and across certain public lands, and of patent in fee to certain other public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, at the Secretary of the interior be, and he is hereby, authorized to grant to raiser Steel Corporation, a corporation organized and existing under and by virtue of the laws of the State of Nevada, permanent rights-of-way, not exceeding two hundred feet in width, on, over, under, through, and cross public lands of the United States in the county of Riverside, State of California, in the townships, ranges, and sections described in section 2 of this Act, for the purposes of constructing, operating, and maintaining any and all works, structures, facilities, roads, railroads, power lines, and pipelines necessary, convenient, incidental, or appurtenant to the operation of the mines, camp sites, and mill sites of Kaiser Steel Corporation in the vicinity of Eagel Mountain, Riverside County, in the State of California: *Provided*, That such rights-of-way be subject to existing rights in conflict therewith and shall be subject to reversion to the United States if the rights-of-way are abandoned or not used for a continuous period of seven years by said corporation or its successors in interest: *Provided further*, That the Secretary of the Interior shall attach and impose such further conditions on said rights-of-way, and promulgate each rules and regulations as he shall deem appropriate, consistent with the use of said rights-of-way for the purposes described in this Act.

SEC. 2. Said rights-of-way shall extend through all lands mud by the United States or any deportment or agency thereof in any of the following ranges, townships, and sections of Riverside County, in the State of California:

(a) Township 8 south, range 11 east, sections 20, 29, 28, 27, 21, 22, 23, 14, 13, and 12; township 8 south, range 12 east, sections 7, 8, 9, 10, and 3; township 7 south, range 12 east, sections 34, 35, and 36; township 7 south, range 13 east, sections 31, 32, 29, 281 21, 22, 23, 14, 13, and 12; township 7 south, range 14 east, sections 7, 8, 5, and 4; township 6 south, range 14 east, sections 33, 28, 21, 16, 9, 8, 7, and 6; township 5 south, range 14 east, sections 31, 32, 29, 28, 27, 26, 23, 24, 13, and 12; township 5 south, range 15 east, sections 7 and 6; township 4 south, range 15 east, sections 31, 30, 19, 20, 17, 18, 7, and 6; and continuing through townships 4 south and 3 south, range 14 east, to a terminal point at the site of the mill and camp of Kaiser Steel Corporation in the vicinity of Eagle Mountain in the State of California.

(b) Township 4 south, range 15 east, sections 30, 19, 20, 17, 18, and 7, and continuing through townships 4 south and 3 south, range 14 east, to a terminal point at the site of the mill and camp of Kaiser Steel Cooperation in the vicinity of Eagle Mountain in the State of California.

(c) Township 3 South, range 15 east, section 31, and continuing through townships 4 south and 3 south, range 14 east, to a terminal point at the site of the mill and camp of Kaiser Steel Carl ration in the vicinity of Eagle Mountain, in the State of California.

SEC. 3. The Secretary of the Interior be, and he is hereby, further authorized to grant a patent in fee to Kaiser Steel Corporation, a corporation organized and existing under and by virtue of the laws of the State of Nevada, that property located in townships 4 south and 3 south, range 14 east, Riverside County, California, which said Kaiser Steel Corporation now maintains as a camp site and mill site in connection with its mining operations and which is composed, of four hundred sixty-five and eighty-five one hundredths acres, more or less: *Provided*, That such patent shall be subject to a reservation to the United States of all deposits of minerals together with the right of the United States, its agents, permittees, lessees, or assigns to enter upon, prospect for, mine, and remove each minerals under the laws of the United States and regulations prescribed by the Secretary of the Interior: *Provided further*, That said property shell revert in fee to the United States in the event that said property is not used for a continuous period of seven years as a camp site or mill site or for other incidental purposes in connection with the mining operations of said corporation or its successors in interest.

SEC. 4. The Secretary of the Interior shall fix, and Kaiser Steel Corporation shall pay, a reasonable sum or sums to the United States, including compensation for the cost of surveys necessary to carry out the grants and patent authorized hereby, as consideration for such grants and patent. Said grants and patent shall include suitable descriptions of the property covered thereby.

Approved July 8, 1952. (H. R. 1853) Kaiser Steel Corporation

RIGHTS-OF-WAY REGULATIONS APPROVED FOR RIGHTS-OF-WAY UNDER PRIVATE LAW 790 (66 Stat. A129) 82d Congress, 2d session—KAISER STEEL CORPORATION

a. Any grant of a right-of-way made under the authority of Private Law 790 (66 Stat. A129) 82d Congress, 2d Session, shall be subject to the terms of the Act and conditions and provisions contained in 43 CFR 244, Subparts A, D, and F (to the extent applicable) including 43 CFR 244.9 (a) to (l) inclusive with the following changes or exceptions therein:

(1) Paragraph 244.9(e) will be amended to read: "To take each soil and resource conservation and protection measures including weed control, on the land covered by the rights-of-way as the superintendent in charge of such lands and reasonably request."

(2) Paragraph 244.9(f) will be amended in this case to read: "To pay to the United States the full value for all damages to the lands or other property of the United States caused by the fault or negligence of the Kaiser Steel Corporation, its employees, contractors or employees of contractors, and to indemnify the United States against any liability for damages to life, person, or property arising from the fault or negligence of the Kaiser Steel Corporation in its occupancy or use of the lands under the right-of-way."

APPENDIX D

DAVID J. YERKE, INC. APPRAISAL
October 5, 1996

David J. Yerke, Inc.
Real Estate Appraisal and Consulting
Bank of America Professional Center
7424 Jackson Drive, Suite Four
San Diego, California 92119-2389
Office (619) 698-3565
Fax (619) 698-2039

October 5, 1996

Bureau of Land Management
California Desert District
6221 Box Springs Boulevard
Riverside, CA 92507

Kaiser Eagle Mountain, Inc.
Mr. Gerry Fawcett
3633 E. Inland Empire Blvd.,
Suite 850
Ontario, California 91764

Re: Eagle Mountain Land Exchange - *Volume I*
Selected Public Lands
Riverside County, California

We have personally examined and appraised the above-referenced property. The following appraisal report is presented in the order as shown by the Table of Contents, which is patterned after the format recommended in the Uniform Appraisal Standards For Federal Land Acquisitions (Washington, D.C., 1992). This appraisal has been performed pursuant to and in accordance with the requirements of 43 C.F.R. Section 2201.3 and the Department of Justice

Uniform Appraisal Standards for Federal Land Acquisitions. The BLM (client) has requested this appraisal in connection with its proposed land exchange with Kaiser Eagle Mountain, Inc.

This firm previously prepared an appraisal report for the selected (BLM) lands; the campsite/millsite lands and the offered (Kaiser) lands on June 5, 1993. The current appraisal report updates the analyses contained in the June 5, 1993 report. As noted later in this report and as reflected in the comparable sales used in our analysis, real property market values in the areas of the subject lands have declined since the previous appraisal was performed in 1993, due to several factors. Therefore, the fair market values of the selected lands, campsite/millsite land and offered lands have also declined since these lands were previously appraised in 1993.

The appraisal assignment concerns lands which are involved in a potential exchange between The Bureau of Land Management (BLM) and Kaiser Eagle Mountain, Inc. in conjunction with the proposed Eagle Mountain Landfill Project. The Eagle Mountain Landfill Project is a proposed Class III, non-hazardous, solid-waste landfill in an unused open-pit mine located at Eagle Mountain in northeastern Riverside County California. Kaiser operated the mine between 1948 and 1983, when mining operations ceased because economic conditions did not warrant further exploration. As part of the cessation of mining activities, the ore concentrating facilities have been removed from the property as has most of the mining machinery.

Under the Federal Land Policy and Management Act (FLPMA), approximately 3,481 acres of public lands managed by BLM are to be transferred to

Kaiser Eagle Mountain, Inc., In exchange for approximately 2,846 acres of land currently owned by Kaiser.

The selected public lands are located within and around the proposed landfill site. The offered private lands are within and adjacent to the Chuckwalla Bench and Dos Palmas/Salt Creek Areas of Critical Environmental Concern, and the Orocopia Mountains Wilderness Area, as designated in the California Desert Conservation Area Plan, as amended and the California Desert Protection Act of 1994. These areas contain identified habitat for the desert tortoise, a Federally listed threatened species, and riparian habitat supporting the desert pupfish, a Federally listed endangered species.

The exchange also includes the reversionary interest of the United States in 460.63 acres of land which was conveyed to Kaiser under Patent 1153422 for campsite and millsite purposes and other uses incidental to mining pursuant to Private Law 790 enacted by the United States Congress on July 8, 1952.

The appraisal assignment concerning the proposed land exchange has been divided into four separate and distinct but interrelated volumes of text. *Volume I* concerns the selected public lands totaling approximately 3,481 acres surrounding the former Eagle Mountain open pit iron ore mine. *Volume II* involves the appraisal of the approximately 460.63-acre "Campsite/Millsite" property, which constitutes a large majority of the former company town of Eagle Mountain. *Volume III* concerns the offered private lands owned in fee by Kaiser Eagle Mountain, Inc., totaling approximately 2,846 acres. These lands consist of seven non-contiguous larger parcels

situated in various locations adjoining along the 52-mile Eagle Mountain Railroad right of way, extending from just north of Interstate 10 to near the Southern Pacific rail junction at Ferrum near the Salton Sea.

Volume IV is devoted to the pertinent comparable land sales utilized within the three appraisal volumes. Detailed data sheets of all of the sales have been grouped into one volume and numbered consecutively in order to avoid any potential overlap and confusion. The consecutive numbering in Volume IV allows effortless referencing of the comparable sales in order to compensate for the relatively random numbering sequence particular to each appraisal volume.

This particular appraisal report is identified as *Volume I*, and concerns the selected public lands totaling 3,481 acres adjacent to and surrounding the former Eagle Mountain open-pit, iron ore, mine and townsite. The Eagle Mountain mine is located approximately 10 miles north of the community of Desert Center and Interstate 10 via Kaiser Road. The lands include steeply sloping mountainous areas to the north and west of the open-mine pits as well as basically level desert lands lying south of the townsite extending easterly to the Colorado River Aqueduct. The desert lands surround two of the old tailing ponds, which, according to United States Geological Survey (USGS) mapping, appear to encroach within the lands being appraised. The level desert lands have access potential from Kaiser Road, a two-lane paved County road which provides the primary access to Eagle Mountain from Interstate 10. The mountainous lands to the north and west of the open-mine pits are within the Eagle Mountains and

include lands which have been actively mined in the past as well as lands identified on topographic maps as mine dumps. Graded dirt roads serving Kaiser's adjoining mining operation, including the mine dumps, cross these lands, providing limited access to the sites.

The selected public lands are zoned M-R-A (Mineral Resources and Related Manufacturing), W-2 (Controlled Development Areas), and N-A (Natural Assets) by the County of Riverside. The selected public lands are within the boundaries of the Chuckwalla Land Use Planning Area of the Riverside County Comprehensive General Plan.

The boundaries of the selected public lands differ from the parcelization shown on County Assessor mapping. Area calculations and exhibits illustrating the locations and acreages of the individual parcels comprising the selected public lands have been prepared by Harold E. Robinson, Professional Land Surveyor of CM Engineering Associates, San Bernardino, California, and are included in the Addenda.

For the purpose of this appraisal, Mr. Robinson's area calculations and exhibits are assumed to be correct and have been relied upon herein. If the area calculations and exhibits are subsequently revised, the appraisers reserve the right to re-analyze and re-evaluate the opinion of Fair Market Value as expressed herein.

Most of the selected public lands are encumbered by lode mining claims and mill sites held by Kaiser Eagle Mountain, Inc. and, according to BLM mining claim records, are reportedly still maintained and valid. These mining claims are expected to be relinquished at the time the land exchange is executed.

For the purpose of this appraisal it is assumed that the mining claims have been relinquished as of the date of value.

A mineral potential report was prepared for the BLM by P.K. Morton, a qualified contractor. The Morton report concluded that the selected public lands were judged to have low potential for mineral resources. Morton also concluded that veins scattered through the property did not contain sufficient materials to be considered valuable. Kaiser also examined the property for gold during the late 1980's and reportedly concluded that there was not sufficient mineralization to warrant economic development. Sand and gravel resources were noted by Morton within the eastern and southeastern portions of the selected public lands. Possible economic sand and gravel resources were found in the alluvial fan deposits. BLM has concluded that the mineral estate is presently without economic value and will also be conveyed as part of the exchange. However, a mineral royalty reservation will be placed on those lands containing sand and gravel resources.

For the purpose of this appraisal, it is assumed that any remaining mineral estate has transferred as part of the fee. No opinion is expressed as to the value of subsurface oil, gas, or mineral rights and it is assumed that the property is not subject to surface entry for the exploration or removal of such materials.

A. Level-I contaminant survey was completed on the selected public lands. Hazardous materials were suspected on the selected public lands, put there by Kaiser during mining operations. Subsequent investigations have determined that there are no hazardous substances occurring on the selected public lands.

Kaiser has agreed to waive any BLM responsibility for any hazardous materials on the selected public lands included in the land exchange.

Per instruction received from the BLM, *"The Appraiser is to be instructed to disregard any effect that the possible presence of contaminant subsistence may have on the value of the land."*

A policy of title insurance for the selected public lands has not been provided. The status of legal access and appurtenant easements to the private roads crossing various portions of the selected public lands is unknown.

The purpose of this appraisal is to estimate the Fair Market Value of the fee simple interest in the selected public lands. Fair Market Value, as defined in the Uniform Appraisal Standards for Federal Land Acquisitions, is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy, as of the date of value, The selected date of value is September 25, 1996, which was the latest date of personal inspection.

From the following analysis, it concluded that the estimated Fair Market Value of the selected public lands, as of September 25, 1996, is:

TWO HUNDRED SIXTY-EIGHT
THOUSAND DOLLARS
($266,000)

The opinions of value expressed within this appraisal report do not take into consideration any aspects of the proposed landfill project. The property

has been appraised based on its estimated highest and best use as if available in the open market, in accordance with the underlying zoning regulations, County of Riverside General Plan land use recommendations, and California Desert Conservation Area land use guidelines.

The following pages contain the data upon which the opinions of value are predicated, subject to the enclosed Assumptions and Limiting Conditions and Certification.

Respectfully submitted,

/s/ David J. Yerke

David J. Yerke, MAI
Certified General
Appraiser
State of California
#AG009110
DAVID J. YERKE, INC.

/s/ Frank D. Ohrmund

Frank D. Ohrmund
Certified General
Appraiser
State of California
AG00964B

* * * *

ANALYSIS OF HIGHEST AND BEST USE

Highest and Best Use is defined as:

> "The reasonably probable and legal use of vacant land or an improved property, which is physically possible, appropriately supported, financially feasible, and that results in the highest value. The four criteria the highest and best use must meet are legal permissibility, physical possibility, financial feasibility, and maximum profitability."

The Dictionary of Real Estate Appraisal, Second Edition; copyright 1984 and 1989 by the American Institute of Real Estate Appraisers).

This definition applies to vacant land or improved property. The highest and best use of vacant land could be immediate development of the property or holding for future development. As applied to improved property, it considers the possibility that the highest and best use of an improved site could be continued operation of the improvements, conversion to some alternative use, or demolition of the existing structure and construction of new improvements. When a site contains improvements and the highest and best use is determined to be different from the existing use, that use will continue unless and until land value under the highest and best use exceeds the sum of the value of the entire property in its existing use and the cost to remove the improvements.

The highest and best use of a property is determined by social, economic, governmental, and environmental forces. The relative weight that any of these forces carries in determining the highest and

best use of a property depends on the individual property. The four forces work in concert to affect property values, For any given property these forces can exert uneven influence on the value with certain forces having greater impact on that particular property than others.

The process of identifying the highest and best use of a site under both premises involves filtering out the unlikely alternative uses which cannot meet at least one of the four tests of highest and best use. Those tests are: 1) that the use is legally permissible; 2) that the use is physically possible on the site; 3) that the use is financially feasible; and 4) that the use is the maximally profitable use among the alternatives.

The four filtering tests are applied to every conceivable land use until only one emerges as the likely highest and best use. This helps define the criteria for selection of comparable sales to be used in the valuation.

The opinions of value expressed within this appraisal report do not take into consideration any aspects of the proposed landfill project. The property has been appraised based on its estimated highest and best use as if available in the open market, in accordance with the underlying zoning regulations, County of Riverside General Plan land use recommendations, and California Desert Conservation Area Plan land use recommendations. (Assumption No. 19)

Legal Permissibility

The selected public lands are zoned M-R-A, Mineral Resources and Related Manufacturing; W-2, Controlled Development Areas; and N-A, Natural

Assets, all County of Riverside zoning classifications. in general, permitted uses include limited residential uses, light agricultural uses, and mining and mine related activities. Mining operations are permitted in the M-R-A zone but require Conditional Use Permits In the W-2 and N-A zones.

The selected public lands are identified as "Category IV – Outlying Area" in the Riverside County Comprehensive General Plan. "Category IV" land uses contain the least intensive land use of any area in the County and are generally located in outlying areas away from urban centers near large tracts of publicly owned land. The selected public lands are further classified within the Chuckwalla Land Use Planning Area of the Comprehensive General Plan, designated for Open Space and Conservation. The General Plan states that:

> *Open space which will protect County environmental resources and maximize public health and safety in areas where significant environmental hazards exist shall be preserved and maintained . . . Conservation is basically the process of managing all natural resources over a long period of time. It serves to regulate land uses that could lead to degradation of the environment through pollution or loss in productive capacity.*

The selected public lands are designated in two categories on the Open Space and Conservation Map. In general, mountainous portions of the, site are designated as "Mountainous Areas" in the plan and lands on the valley floor are designated as "Desert Areas." Mountainous areas include lands exceeding 25% slope which:

> *. . . because of steep slopes, poor soils, lack of water, lack of access, lack of utilities and their very remoteness are generally not suited for lot sizes less than ten acres. These areas are often heavily brushed and constitute potential fire hazards and are important in relation to water conservation, plant and animal habitat, conservation of mineral resources, recreation, and the conservation of air.*

Permitted land uses in the Mountainous category include open space, limited recreational uses, and limited single family residential development with a minimum lot size of 10 acres. Desert areas are classified as:

> *. . . areas with lack of water and other services and poor access.*

Permitted land uses in the Desert category are similar to the Mountainous category, including open space, limited recreational uses, and limited single-family residential development with a minimum lot size of 10 acres.

In their current, undeveloped state, the selected public lands are in conformance with the underlying zoning classifications and Riverside County Comprehensive General Plan land use regulations. Outside of the proposed landfill project, there is little likelihood that a change in either zoning or land use would be implemented by the County in the near future.

Physically Possible

The selected public lands contain a total of 3,481 acres surrounding the former Eagle Mountain open pit iron ore mine and townsite. The lands include steeply sloping mountainous areas to the north and

west of the open mine pits as well as basically level desert lands lying south of the townsite extending easterly to the Colorado River Aqueduct. The level desert lands have access potential from Kaiser Road, a two-lane, paved County road which provides the primary access to Eagle Mountain from Interstate 10. The mountainous lands to the north and west of the open mine pits are within the Eagle Mountains and include lands which have been actively mined in the past as well as lands identified on topographic maps as mine dumps. Graded dirt roads serving Kaiser's adjoining mining operation, including the mine dumps, cross these lands, providing limited access to the sites.

Public water and sewer facilities are not available in this portion of eastern Riverside County. Non-potable water is provided to the town of Eagle Mountain from wells owned by Kaiser Eagle Mountain, located approximately six miles east of the project site. Reportedly the fluoride content in local water wells does not meet drinking water standards. Bottled water is used by the residents of Eagle Mountain for drinking. There is an existing Kaiser sewage treatment facility, including waste water treatment ponds, located south of town. Electrical power and telephone service is extended to the townsite.

The physical characteristics of the site are judged to be adequate at best for the legally permitted uses.

Financially Feasible

Any proposed use which provides a positive return to the land is considered financially feasible. The question of financial feasibility considers only those potential uses which are legally permissible and physically possible. As stated previously, the under-

lying zoning classifications permit limited residential uses, light agricultural uses, and mining and mine-related activities. Mining operations are permitted in the M-R-A zone but require Conditional Use Permits in the W-2 and N-A zones.

Kaiser operated the Eagle Mountain mine between 1948 and 1983 until mining operations ceased because unfavorable economic conditions thwarted further extraction. As part of the cessation of mining activities, the concentrating facilities have been removed from the property as has most of the mining machinery. Reportedly, there remains substantial deposits of iron ore available for mining. However, the ore is of low-grade quality, which is one of the primary reasons the mine was shut down eleven years ago. There are no plans in the foreseeable future to reactivate the mine for extraction purposes, as evidenced by the dismantling of the machinery and equipment. Since it is not feasible to recover mineral resources at the current time and since future market conditions are not entirely predictable, further mining and extraction is no longer estimated to represent a financially feasible use for the selected public lands.

There is limited agricultural uses in this portion of eastern Riverside County, consisting of a few fields devoted to jojoba and grapes along the Desert Center/Rice Road area, approximately eight miles southeasterly. Primary agricultural areas are over 50 miles distant to the east in the Palo Verde Valley and to the west in the eastern Coachella Valley.

Residential development activity in this subregion has been concentrated around the town of Desert Center adjoining Interstate 10, the Lake Tamarisk development, and within the town of Eagle Moun-

tain. Eagle Mountain was a company town operated by Kaiser Steel which housed mine employees during the 40-odd years in which the mine remained active. At full operation, the town had roughly 4,000 inhabitants and offered all necessary community services and facilities for the populace. Since mining operations ceased in 1983, many former employees have moved from the area. Today, the town is for all intents and purposes shut down and has fallen into a general state of disrepair. Most of the houses have either been razed or boarded up.

The selected public lands are over ten miles distant from Interstate 10 and the town of Desert Center. Although Kaiser has leased some of the campsite/millsite lands for a correctional facility, workers are housed in the remaining homes within the town of Eagle Mountain. Without the mining operation, there is no economic draw to support new residential activity in the area.

Maximum Profitability

Of the financially feasible uses, the use that produces the highest residual land value consistent with the rate of return warranted by the market for that use is the highest and best use. While there may not be one specific use that can be identified, a narrow range of uses can be isolated that will create maximum residual land value.

The selected public lands are situated in a remote, mountainous area of eastern Riverside County adjoining a former mining operation which has now been closed for eleven years and has no potential in the foreseeable future for reopening. None of the legally permissible and physically possible uses are

estimated to be financially feasible on the selected public lands.

The Riverside County General Plan recommends that lands in the subject subregion be preserved for open space and conservation purposes. Lands within this vast expanse of sparsely populated desert are primarily unimproved and have existed in an undisturbed, natural state for over a century. As will be illustrated in the forthcoming valuation analysis, lands in this portion of eastern Riverside County are primarily purchased by speculators and investors who are typically buying lands on speculation that they can be resold at a profit at some point in the future or are land banking for unknown reasons.

There are 16 comparable sales included in *Volume IV* of this assignment for analyses of the various subject properties. All of these comparables involved lands which were in a raw state when sold. These 16 transactions involved raw lands which were purchased for speculation and/or investment purposes rather than for any development potential they might possibly have.

Conclusion

In conclusion, after considering all known facts, it is estimated that the selected public lands do not have imminent development potential. Therefore, the highest and best use of the selected public lands is estimated to be holding for speculative investment and future capital appreciation.

APPENDIX E

FIRST AMENDMENT TO LEASE
July 1, 1990

THIS AMENDMENT is made on July 1, 1990, by and between Kaiser Steel Resources, Inc., Successor to Kaiser Steel Corporation, ("Landlord"), and Management and Training Corporation ("Tenant").

It is expressly covenanted and agreed by and between Landlord and Tenant as follows:

Recital A

This paragraph is amended to increase the size of the Premises as shown on revised Exhibits "A" and "B" (revisions dated October 1, 1989).

Article IV - Rent

4.01 a. - This paragraph is amended to increase the monthly rent to Forty Six Thousand Two Hundred Twenty Dollars ($46,220) commencing July 1 1990 and to Sixty One Thousand Four Hundred and Eighty Two Dollars ($61,482) commencing December 1, 1990.

4.01 b. - This paragraph is amended to allow Tenant a new credit against rent in the amount of One Hundred Ninety Nine Thousand Five Hundred Dollars ($199,500) maximum to help defray Tenant's expenditures, during the first ninety (90) days of this Lease Amendment, to prepare for occupancy the additional houses shown on revised Exhibit "B". This deduction from rent shall be equally divided over the next eighteen (18) months' rent beginning December 1, 1990.

Article XXIV - Notices

24.01 - This article is amended to change the Landlord's address as follows:

Landlord Kaiser Steel Resources, Inc.
8300 Utica Avenue, Suite 301
Rancho Cucamonga, California 91730
Attention: Executive Vice President

All other provisions of the Lease dated November 16, 1987, remain in full force and effect and are unchanged by this Amendment.

IN WITNESS WHEREOF, the parties have executed this FIRST AMENDMENT TO THE LEASE as of the day and year first above written.

MANAGEMENT AND TRAINING CORP.

By: [Illegible]

Title: [Illegible]

KAISER STEEL RESOURCES, INC.

By: [Illegible]

Title: [Illegible]